

But ... the other half

(A Collection of Information on child labour in domestic and hotel sectors)



CAMPAIGN AGAINST CHILD LABOUR

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Published by



CAMPAIGN AGAINST CHILD LABOUR
CENTRAL SECRETARIAT

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Published in January 2001

Photo Courtesy : Rajini Kapse
Mumbai. 022-3850397

Picture : A girl from Bijapur, a Child Labourer participating at CACL-Karnataka
Child Labour Convention in April 1998 at Bangalore.

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Compilation : Raghavendra & Suresh Rao

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

Preface

India has the largest number of child labourers who have lost their childhood; they are the children who live the lives of adults in this country.

A work that is unfairly paid or totally unpaid is the domestic work – a work that is often ignored because domestic work is normally done by women. It is unimaginable but true that a seven-year-old Shalini (illiterate) polishing nine year old Lathesha's shoe; that is studying 4th standard. It is rather shocking to hear that 12-year-old Jyothi, a domestic child labourer hanged herself. Can you believe this? Thousands of children, day and night, wash plates, take care of elder children, cook for elders, wash clothes, and feed animals. But these are not considered as child labourers! "I am only helping a child by giving food and accommodation to survive" – many of the employers say so.

CACL has initiated direct intervention in several cases, which are presented in this resource book. These case studies are not just stories; but real lives of our children who lost their childhood in a tender age.

Readers will find actual case studies and compilation of information on policy, law and judgments related to child labour. Different articles presented by select authors, regarding children working in Domestic and Hotel sectors, explain very well the critical situation, the children face everyday.

One part of this resource book deals with the legal provisions related to child labour in this country. Many of us are perhaps not aware of various Acts and Constitutional Provisions of our Rights, especially of the children. It is also true that sometimes we are unable to use these Acts, as the situation would warrant it. It is hoped that the series of consultations, during which this resource book is being released, would help us develop concrete strategies.

CACL views these issues in a broader perspective and seeks to bring the notice of the society that children have to grow as children, not as adults. All should enjoy – Right to Survive, Right to Protection, Right to Participate and Right to Development.

This resource book is a basic tool and provides information for provoking thought and action to address child labour, especially children in domestic and hotel sectors. The government and the public do not seem to consider them as child labour; rather they see the employers as doing a service to the children. This perspective must be challenged.

I must record my gratitude to all the writers whose articles appear in this resource book and we believe these data would be indicative of the large scope for positive action to eradicate child labour.

January
2001

Joy Maliekal
Convener-CACL-CS

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Campaign Against Child Labour

Does this child have rights ?

The lurid screams of an eight year old are still heard from a small snack corner at Vani, Maharashtra. Shiva Murugan was beaten to death on 29th June 1993.

On November 28th 1997, child labourer Gulab Singh breathed his last at the age of 14 when he fell from a construction site of Bhopal Hospital Trust.

13 year old Kumari Jyoti was a domestic servant at a government employee's house at Mysore when she was killed on 27th November 1997.

An over-locking machine in a knitwear unit in Thirpur. Not the place for a 14 year old girl to be in. E. Banu died on June 22nd 1998.

Working children lead a horrifying, exploited and unhappy existence. Crime, police harassment, hunger, drugs, sexual abuse, low wages and the lack of protection. These are the unlucky ones who die a little everyday without the right to play, recreation, leisure, health, nutrition and education.

Campaign Against Child Labour (CACL)

Campaign Against Child Labour was launched in 1992, initially as a network of a few organisations, grew over the years. At present, the campaign consists of a network of over 5400 anti-child labour groups spread over 12 states in India. Active women's groups, trade unions, academic institutions, media agencies, child rights and human rights organisations, research bodies, corporate houses, student volunteers and eminent citizens constitute an integral part of the campaign.

CACL has an advisory committee of eminent citizens and leaders in public life, to provide a vision to the campaign. State co-ordination groups initiate processes of CACL, seeking to strengthen state/district/taluk and grassroot networking.

CACL is committed to the eradication of child labour through building public opinion, investigation of abuse/exploitation, advocacy, lobbying and monitoring of national and international developments. The campaign believes in networking and alliance building with other like minded groups. It intervenes in

specific cases of violation of child rights and abuse of children and initiates relevant advocacy and lobbying to restore justice and rights of the child.

Aim

CACL aims at the immediate and total eradication of child labour and ensuring children the Fundamental Right to Education upto 18 years of age.

Objectives of CACL

- ◆ To create awareness on the eradication of child labour.
- ◆ To highlight violations inflicted upon child labourers and to promote justice through fact finding and litigation.
- ◆ To lobby for review of legislation and policy on child labour and education
- ◆ To put forth successful experiments as alternate strategies to eradicate child labour.
- ◆ To undertake media based advocacy and lobbying.
- ◆ To facilitate field research to feed into the programme strategy of the CACL.
- ◆ Popularising the UN Convention and various Conventions of ILO pertaining to child labour.

CACL's position on child labour

- ◆ The 'child' is any person below the age of 18 years.
- ◆ Child labour includes children prematurely leading adult lives, working with or without wages, under conditions damaging to their physical, mental, social, emotional and spiritual development, denying them their basic rights to education health and development.
- ◆ Any child out of school is a potential child labourer. CACL is against all manifestations of child labour in any occupation or process, in all sectors of work including the formal and non-formal, organized and unorganized, within or outside the family,
- ◆ CACL believes that the enforcement of free, compulsory, quality, education for all



children upto 18 years is a prerequisite for the eradication of child labour.

- ◆ CACL aims at the immediate eradication of child labour.

CACL's Advocacy

CACL Advocates :

- ◆ The elimination of child labour through appropriate legislative measures.
- ◆ The realisation of the Constitutional guarantee of providing free and compulsory education for all children up to the age of 18.
- ◆ To take action in cases of violations of Child Rights, CLPRA and other labour laws and judgements, reported by state units.
- ◆ To collate documentation and facilitate development of alternative education systems.
- ◆ To raise general awareness on the issue.

Highlights of the Campaign in the recent past

Networking with 5400 active groups in the campaign.

Awareness building at state level in 16 states.

Litigation - both Public Interest Litigation and judicial on various acts governing child labour.

Public hearing on child labour.

National convention of child labourers. (Chennai-1994 and Delhi-1997).

Alternate Country report prepared and submitted to UN CRC on child labour.

NCLP : Critical analysis of child labour, rehabilitation scheme.

Cases against Child Rights violation.

Continuum from National level to gram panchayat awareness programmes.

Through the initiative of CACL in Bihar the legislature constituted the (first) Commission on Child Labour in the state (1996).

CACL was represented at various international and Multilateral fora including UN CRC and the ILO.

Composed a fact file of child labour, child abuse and child rights violation.

Participation in various education related alliances and networks.

CACL in the New Millennium

Campaign for Education as Fundamental Right.

Awareness Campaign on CRC

Establishing chapters in various states

Strengthening the existing state chapters.

'Grass - rootisation' of the Campaign.

Advocacy units to be initiated at state level.

Strengthened involvement in lobbying and intervening in the process of policy formulation.

Sensitising the local self-government functionaries (Zill and Gram panchayats).

State/regional level conventions against child labour.

Membership Endorsement Campaign with a view to widen the Network.

Publication of UPDATE news bulletin in Hindi and English. Also publishing state level newsletters in local languages by state groups.

WHAT YOU CAN DO

- ◆ Demand free, quality, compulsory education for all children upto 18 years.
- ◆ Volunteer to raise awareness against child labour in your college, school, social club, office or residential colony.
- ◆ Report instances of child labour and child abuse to authorities and to CACL.
- ◆ Ensure that you and your family do not employ child labour.
- ◆ Pay minimum living wages to adult employees and ensure that their children go to school.
- ◆ Demand that political parties and elected representatives in your area take steps to eliminate child labour.



CACL's Draft Position Paper on Child Labour

CAUSATIVE BACKGROUND TO CHILD LABOUR

Socio-Economic Perspective

No single cause can be isolated for the prevalence of child labour. It is inherent in the cycle of poverty, inaccessible and irrelevant formal school education, unemployment, underemployment, and low wages, caused by inequitable distribution of resources, unleashed by a centralised and lopsided economy and the backward nature of agriculture.

In rural areas land is concentrated in the hands of a few. The land belonging to small farmers is usually of poor quality or inadequate to support an entire family. Often they are only in temporary possession of it. The seasonal nature of agricultural occupations gives rise to migrant and wage labour. Anti poor agriculture policy of the government has further accentuated their marginalization and pauperization.

Unfavourable employment conditions are increasing the number of unorganised, unprotected labourers. In cities, unbridled competition and lack of skills affect earning capacity. The web of deprivation and hostile conditions compel children into taking up work, either helping their own families for engaging in employment outside their homes.

In some areas, the dominance of a particular community engenders exploitation like bonded labour. The largest number of child labourers belong to the scheduled castes and tribes.

Employers labour under the deliberate delusion that by giving children work, they are helping the family to make ends meet. In actual fact children are employed because they constitute cheap labour.

The phenomenon of child labour is perpetuated by the lack of access to free, relevant, quality, compulsory, formal education. Non-availability or the lack of access to schools,

an irrelevant school curriculum and the pitifully low costs incurred on formal school education leads to children being pushed out of schools and entering into the labour force.

While India has a number of legislation pertaining to child labour, the most recent being The Child Labour (Prohibition and Regulation) Act, 1986, the legal framework operates from the paradigm of regulating child labour and has a number of procedural and legalistic loopholes. The major lacunae is that the Act covers only the organised sectors, leaving out the unorganised sector which covers 85 % of the child labourers. Further poor implementation of legislation results in the continuing exploitation of child labourers.

Child labour is both a cause and effect of illiteracy and of ignorance, of poor standards of living and levels of family and community life and cultural attitudes. The issue of child labour is therefore inextricably linked with the overall need for social and political change, land reforms and alternative models of development. However CACL underlines the fact that children cannot wait, there is an urgent need to tackle the problem immediately.

A Working Definition of child labour :

In the fact of the problem caused by various interpretations of the terms 'child' and 'labour', this Campaign has adopted the following definition :

The 'child' is any person below the age of 18 years.

Child labour includes children prematurely leading adult lives, working with or without wages, under conditions damaging to their physical, mental, social, emotional and spiritual development, denying them their basic rights to education, health and development.

The CACL is against all manifestations of child labour in any occupation or process in all sectors of work including the formal and

CACL's Draft Position Paper on Child Labour

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non formal, organised and un-organised with or without wages, within or outside the family.

Any child out of school is a potential child labourer.

The CACL strongly opposes the Structural Adjustment Programmes. New Economic Policies dictated by the International Monetary Fund and the World Bank, the General Agreement on Trade and Tariffs (GATT) and

the WTO. The CACL also opposes the Social clauses and other forms of economic and trade sanctions.

CACL believes that child labour in India is a problem for India to take care of. While welcoming international solidarity support to the efforts initiated and promoted here, it opposes any attempt to use the issue of child labour to promote vested interests in the form of economic sanctions.



The Servant Girl Trapped in Lifelong Domesticity

Sharmila Joshi

Within months of coming to Mumbai from her village in Ratnagiri district, Sarita Wagh landed in a public hospital. Bruised and battered, her face black and blue, arms swollen, her hands branded, her arms swollen, her hands branded, her back full of scabs and wounds.

Six months earlier, hoping to escape the poverty of her rural home, Sarita, 12, had come to Mumbai to be a domestic worker for a couple, both bank employees. For Rs. 300, she worked full-time, washing, swabbing, sweeping, cooking and feeding the couple's two children.

Soon after, the violence started - the first time with a rolling pin. "Then 'mehsaab' started beating me every day," recalls Sarita, "with a stick, with chappals, with her hands. Her husband would fling shoes at me. If I cried out, she stuffed my mouth with a piece of cloth. If I asked for food, she singed my palm with a steaming spoon. She wouldn't let me use the toilet or to bathe."

Sarita could not write home. She was not allowed to step out of the flat in north Mumbai. Neighbours refused to intervene. "I would beg them to stop beating me and send me home. I was very frightened," she says. One day in mid-1997, Sarita went on a rare visit to a shop. The shopkeeper saw Sarita's condition and called Childline, an emergency hotline for children in distress. Volunteers brought the girl to hospital.

Some would argue that Sarita's experience is exceptional that not all domestic workers (DWs) are treated so brutally. But while Sarita was rescued; unnamed others like her are probably still caught in similar prisons of abuse.

It is true that not every girl DW is treated so savagely. Saajida Sajju, also 12 works from 9 am to 1 pm, washing and swabbing in three homes. Then she goes to school.

Back home in a slum in north Mumbai, she cooks, washes clothes and looks after three younger sisters, while her parents, both vendors, are away. "I have no problems at work," she says. "I also like school. I want to become a

teacher".

Saajida's life, when compared to Sarita's, may appear ordinary, a life in which she can study and harbour some dreams. But both girls feature on the same scale of exploitative labour, one at an extreme end, the other less so. Sarita's exploitation is glaringly obvious, but Saajida too is exploited: she is a child, she has worked since age 9, she has no time for play, and she is poorly paid for hard work.

Girls are usually seen as 'natural' domestic workers 'trained' for house work at home. Nobody knows how many girl DWs work, part-time or full-time, in Mumbai. A 1990 study by the state government's social Welfare Department said there were 78,000 women DWs in the city.

The Mumbai Houseworkers' Solidarity (BHS) estimates there may be about 600,000 such workers in the city (men, women and children). Pasty Khan, of Setu, a DW's project of the Nirmala Niketan College of Social Work, estimates there are at least 400,000 DWs in the city, 40 per cent of them girls under 15.

Many of the problems DWs face stem from social attitudes. "Domestic work is not seen as dignified," says Bharati Pflug of the BHS, "perhaps because it is related to the caste system. People feel DWs don't deserve respect or that they can't be trusted. Often, they are not even treated like human beings. I've met workers who are made to sleep in toilets."

Employers often object to the work being done by the BHS, such intervention in cases of abuse or networking for better wages. "Both employers and DWs themselves don't believe they are workers with legitimate rights," Pflug says, "so we insist on calling them workers and not servants or maids."

The attitude towards DWs is perhaps best illustrated, adds Khan, in the outrageous notice in the lifts of many residential buildings in Mumbai: "Servants and Dogs not allowed".

When the Doorstep School, a non-formal education project in south Mumbai slums, tried to enrol girl DWs, the same attitude was evident. "Employers were hostile in the beginning," says Bina Lakshkari, founder of the project, "They would ask why does a servant need to study? Or they would request us to train them in chores like ironing!".

Such attitudes lead to exploitation. Girls living away from their families are especially vulnerable. "Of course not all employers are exploitative. But many look for a child because she will be docile and can be paid much less than an adult," says Khan.

"A girl DW has the same needs as all children," says Sr. Maggie Fernandes of the BHS. "Yet, she may be asked to look after her employer's children and work 15 hours a day".

DWs are often not fed properly. One 11-year-old is given a cup of tea every morning with no sugar and her meals are meagre. Malnutrition, hard work and poor access to medical facilities result in several illnesses : anaemia, fever, skin infections, stomach cramps, etc.

One of the greatest hazards for girl DW's is sexual abuse, either by the employer or by co-workers. "At times, the sons of employers, fed on blue films, see the girl as an object to sexually experiment upon," says Khan. "Girl DWs are hesitant to talk about this. Some

regard it as an occupational hazard that must be endured. Others believe any protest might lead to doubts being cast on their character, plus the loss of their job."

Domestic work is not even regarded as child labour by the Child Labour (Regulation and Prohibition) Act of 1986. In 1994, BHS, Setu and Yuva, an NGO and member of the nationwide Campaign, Against Child Labour, gave a draft DW Conditions of Service Bill to the state government.

The Bill regulates working conditions for DWs and proposes rights like weekly holidays, sick leave, bonus and compensation for termination. It does not seek a ban on child domestic work, because Khan says, "What do we have to offer them instead ?" The government has not responded so far.

Voluntary groups try to offer solutions. BHS operates through a network of 28 church affiliated community groups and holds regular meetings for DWs to discuss problems and intervention strategies. Setu holds literacy and general awareness classes.

But these are small, short-term solutions. "Until the government responds, until awareness grows, girl DWs will continue to be exploited," says Sr. Fernandes. "They will grow up to be women DWs, exploited in different ways." Adds Khan, "We may help one or two children. What about the others ?".



The Girl Child

Free and Compulsory Education is Imperative

Sharmila Joshi

For countless girls in India who work through their childhood, school is a distant dream.

Sundari Wagh, 12, migrates with her family from Biloshi village in Thane district to work in brick kilns for five months every year. While at the kiln, school is forgotten. When she returns to Biloshi, her name has invariably been struck off school records, or she has to repeat the class. Still in Class III after several years, Sundar will probably drop out this year. Every child from the estimated 40,000 migrant families working in brick kilns in the district is in a similar, precarious position.

Vinita Chauhan, 12 and her family also migrate during October to May every year from Sakund village in Aurangabad district to one of the 125 - odd sugarcane factories in Maharashtra. The factories provide indirect employment to 1,500 -2,000 families each, to pick, cut, bundle and load the cane. This means that at least 200,000 child migrants like Vinita, a Class III drop out have to abandon any notions of a decent education.

In Temburne village of Latur district, Asha Gaikwad, 10, whose parents are landless labourers, cannot find time for school. After filling water, sweeping and washing, she goes to a landowner's fields to weed. When this work is not available, she grazes cattle for a small fee. Agricultural labourers like her account for up to 85 per cent of all child labour in India.

In the cities, a girl worker's access to education is not much better. In Nagpur, girls often drop out after class IV to help their mothers roll agarbattis at home. Saajida Sajju, 11 a domestic worker works in three slum homes, while her parents work as vendors. She is thinking of leaving school.

Almost no girl rag picker or beggar in Mumbai has ever been to school. A 1993 study by the Nirmala Niketan College of Social Work says nearly 400,000 children in the age group 6-14 are out of school on any given day in

Mumbai. Half of these have never enrolled, the rest are early drop out after Class VII. Most villages in Maharashtra do not have schools beyond this level.

In Maharashtra, only 39 per cent of girls in the 4-14 age group are educated. A 1993 study by Nirmala Niketan found that of 625 girls surveyed who lived on the streets with their families, and worked in occupations such as fish sorting and basket-making, 84 per cent were illiterate.

All these girls child labourers are 'invisible'. But they form a significant part of the vast unorganised and unrecognised work sector. One statistical profile on child labour commissioned by the International Labour Organisation (ILO) calls them the 'nowhere children': a category of the child population which is neither at school nor reported to be economically active. All official estimates and policies related to child labour ignore these workers.

In 1991, India has a child population (0-14 years) of 296.9 million, nearly half of them girls. Altogether 116.32 million children, 60 per cent of them boys, were attending school according to the ILO study. In 1991, 60.8 per cent of India's girls aged 7 years and above (i.e. two-thirds of them in rural areas) were illiterate, according to a UNICEF publication.

Girls from Scheduled Castes (SC) are amongst the most deprived. The UNICEF report says children account for only 15.79 per cent of the enrolment in Classes I to V. Only 39.46 per cent of these are girls, and over half drop out after primary school. The drop out rate for Scheduled Tribe girls, at 68.73 per cent, is even higher.

The Fifth All-India Educational Survey (1989) of the National Council for Educational Research and Training found that more than 60 per cent of primary schools in India have only one teacher for all five classes from I to V. Out of up to 5.29 lakh primary schools, over half the total number had no drinking

water facilities, 85 per cent had no toilets and 71,000 had no buildings at all, pucca or kuchha (complete or incomplete).

And all this despite Article 45, which states: "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, free and compulsory education to all children until they complete the age of 14 years." Social attitudes towards a girl's education contribute to the low literacy rates. A 1980s survey by the Committee on the Status of Women showed that 16.8 per cent of respondents were against education for girls.

The survey found that other reasons for familial apathy were : lack of time, since girls have to do domestic chores ; absence of schools within walking distance and absence of transport and child-care facilities (for siblings whom girls have to look after), which make it difficult for girls to be in school.

Often, it is difficult to convince parents about the benefits of education, confronted as they are with rampant adult unemployment. But these are only the effects of more fundamental causes such as social inequity, official neglect and anti-poor policies. Despite our terrible literacy rate, the five year plan allocations for education have been falling: from 7.83 per cent in the first plan to 3.5 per cent in the seventh plan. "As the problems of her children's education grew more," writes journalist P. Sainath in a book about India's poor, "India spent less and less on them."

Estimates of how many children work in India vary widely. From 17.36 million (Planning Commission, 1983) to 20 million (Labour Ministry, 1994). From 44 million (Operations Research Group, Baroda, 1983) to at least 70-80 million (Campaign Against Child Labour, a nation-wide network).

In mid-1997, the Maharashtra government, following a 1996 Supreme Court order, 'surveyed' child labour in the state, and came up with the ludicrous figure of 13,919. According to the survey, Mumbai has only 592 child workers, of which only 25 work in hazardous occupations ! Even government spokes persons admitted the survey was not accurate, but the haphazard operation indicates the official attitude to the problem.

It is often said that unless our enormous poverty (210 million living below even the destitution line) is reduced, child labour will continue. But, as Justice P. N. Bhagwati has said, "It is a myth that child labour is the result of widespread poverty. It is not right to condone it as a necessary concomitant of poverty." The Child Labour (Prohibition and Regulation) Act of 1986 does not work. It only focuses on a handful of hazardous occupations where child labour must be prohibited and ignores the ill-effects of all other child labour. The Act also presupposes an employer-employee relationship, thus excluding the huge unorganised sector.

Child rights' activists advocate free and compulsory education for all children under 14 years as one imperative solution to child labour. If implemented, this would deter the process of children being drawn into the labour force. The experience of several countries proves this to be true, points out eminent political scientist Myron Weiner. Enforced education must be accompanied by other measures : making the education system more relevant to employment, addressing the problem of adult unemployment which is related to child labour and appropriate rural development. But these are big solutions, too big perhaps when the victims are small children.



Plight of the Girl Child

Innocence Lost

Meena Menon

A 12-year-old girl is abducted by her own father who has been separated from the family. She is brought to Mumbai and sexually abused by him regularly. The girl, who is under great trauma, escapes to a life on the streets. She is rescued and sent back to her family.

In the last few years, social workers and activists have noticed a steady increase in the number of girls who have fled their homes or been lured and come to the city, fending for themselves on the streets.

Sangeeta Punekar, social worker with Sneha Sadan, the pioneering institution for street children, says that a group of girls were found three years ago on the streets making a living by soliciting or duping men. "Earlier, even the idea that girls could live by themselves without being abused or sold was unheard of" she says.

Social workers say that sexual abuse, ill-treatment by parents poverty and the glamour of the city are among the reasons girls flee their homes. They could be even as young as 7 years. Some girls sent by the family to beg just never leave any trace behind and disappear.

Kavita, a social worker from YUVA, a NGO, says young girls often dress like boys to escape attention and live with groups of boys all about the age of 12. A researcher came across 20 such girls fending for themselves. Later, however, they indulged in drug abuse and almost all of them had been subject to sexual assault.

Zarine, chairperson of the Co-ordination Committee for vulnerable Children, who is also associated with the Salaam Balak Trust, says an experimental night shelter for young girls was started last year at Dongri. The shelter is jointly run by the Maharashtra State Women's Council and the Salaam Balak Trust and has five girls. "It was a need felt by the girls themselves who came to us asking for space and security."

Zarine says the Centre is closed on Sundays (though not at night) and the girls keep in touch with their community. "I should emphasise that we don't give the girls false dreams. The street is still their home. We equip them to be confident

and strong enough to say 'no' to a man."

Rita used to live with her alcoholic mother and a father who was a brown sugar addict. After they died, she lived with her two brothers, one of whom died during the riots. "I used to gamble with the boys and I would eat halwa embedded with glass pieces. I had a caretaker whom I called 'nani' and who was lame. While I slept on the streets, my nani would stay awake all night as boys would get drunk, sleep next to me, and harass me. A girl we know got married at 14 so that the boys would stop harassing her".

Geeta, 14, says, "Both my parents were brown sugar addicts and they sold our home in the eastern suburbs and came to live in the island city. My parents used to steal to satisfy their addiction and we were left to fend for ourselves. I used to sell dried fruits or vegetables for a living. I had to wake up at 4 am to buy vegetables and sell them. I have studied up to VI Standard. I want to study further and become a nurse."

Sudha ran away from home when she was 10, as her alcoholic father used to beat her often. She came to a train terminus where she lived with a group of girls for many years but kept going home occasionally. In the meantime, she found a man whom she took on as her protector. But he left her and after some unsuccessful liaisons, she finally married when she was 13. Now at 18 she has two children by him. She now stays in her own house bought from her very own savings. It was getting unbearable to live with her husband who used to beat her up too often very badly. Their children are with her. "But," says she, "living separately has its problems. One has to take the protection of some man or the other. Earlier I was never afraid of living on the streets. We used to stay at the station and there were quite a few of us."

The large hall at another train terminus is always crowded and it is difficult to spot a small group of women chatting. Next to them, sprawled on the bare ground is Ruby, in her early teens. "I cut my hair myself," she says, shaking her bob. She is one of the teenage girls who solicits at this station. "I came to Mumbai with

my father when I was very young and he used to work here. He slowly got addicted to alcohol and almost went crazy." A year ago, her father died and she refused to live in Pune with her mother who had married again. She came in contact with Rupa, a tout who sold her for Rs. 18,000 to a brothel at Pila House. But she ran away from the brothel and came back to the station men whom her earlier 'madam' used to employ. Amazingly she is back with Rupa and looks after her children. Of the Rs 400 to 500 she earns daily, she gives half to Rupa.

" I know what dangers are in store for me but with Rupa I am safe. I have to pay off policemen by spending at least Rs. 100 on them every day. With the rest of the money, I have a quarter of country liquor daily and I drink beer as well. " My rate for a full night is Rs. 1000. I try to fool some of the customers.

I take half the payment as advance. Then we go by cab to the hotel, and I rush inside, asking him to follow me after paying up the cab. Cautiously I manage to give him the slip. Some men get fooled and go away. Besides I don't see why I should sleep with them all the time. "She says she has been resisting Rupa's attempts to make her go back to the brothel.

Priti, a primary school drop out, used to beg at Chhatrapati Shivaji terminus and sell cinema tickets in black. Her mother separated from her father but he did not marry again. Priti got addicted to brown sugar when she was 11 or 12 and earned Rs 150 to 200 a day. " I was not really interested in boys but wanted a good life." Since her father protected her to a great extent, she was not afraid of harassment from boys. Six or seven years later, Priti went in for detoxification. Today she is married and, like Ruby, concerned about the plight of runaway young girls whom she tries to help out.

Karen Britto, who works with Amchi Kholi, the outreach centre at Chhatrapati Shivaji Terminus run by Sneh Sadan, says, "The problem with single girls is that they cannot live alone. Rather, not permitted. She has to be someone's mistress or else she becomes everyone's property. The economic options open to her are limited. Physically she is disadvantaged and socially her single statehood is not accepted. She does not have the usual options that are thrown open to boys/men. She cannot sell bottles, etc. The only option for girl is to solicit or tag on to a male. She lives in constant fear and pressure of being sold to brothels".

It is not unusual for such girls to work past midnight selling flowers in the local trains or standing outside places of worship to beg. Some of the girls live with their families and often they are the only earning members. At another suburban station in Central Bombay, little girls are prompted by their mothers to beg. Though some of them go to school, they have to earn at least Rs. 20 to 30 day so that their families can survive. Ten - year - old Rukaiya and Anita beg for a living. Rukaiya starts her day very early. She wakes up to buy tea and organise breakfast and then rushes to school. Work which starts in the afternoon goes on till evening and that can include long trips on the local trains.

A social worker interacting with this particular group says all the girls face the danger of sexual abuse. Two older girls from the same platform were repeatedly gang-raped by boys from the slums nearby. One of them sustained injuries when she tried to resist. Social workers say there are no planned interventions for the girls, except on a case - to - case basis. " We have to arrive at some understanding on how to run a shelter and there is also the question of morality. Till then we can only keep in touch with these girls and involve them in various programmes, " says Kavita.



Supreme Court Judgement on Child Labour

Writ petition No. 465 of 1986

M.C. Mehta vs. State of Tamil Nadu and others

AN APPRAISAL

History of the Petition

On December 10, 1996 a three-member bench of the Supreme Court, comprising Shri Kuldeep Singh, Shri B. L. Hansaria and Shri S. B. Majumdar, gave its verdict on the petition of M. C. Mehta versus the State of Tamil Nadu and others. The writ Petition No. 465 of 1976 sought to invoke the Court's power under Article 32 of the Constitution in the matter of the gross violation of Article 24 by the employment of children in the match factories of Sivakasi.

The petition was first disposed off on October 31, 1990 wherein directions were given to improve the quality of life of children employed in keeping with Article 39 (f) and Article 45 of the Constitution.

Following the publication of an "unfortunate accident" in Sivakasi, suo moto cognizance was taken of the petition and directions given regarding payment of compensation. An Advocates Committee, consisting of Shri R.K. Jain, Ms. Indira Jaising and Shri K.C. Dua, was appointed to prepare a comprehensive report relating to various aspects of the matter. Its recommendations, including regulations of work hours to six, provision of recreation, socialisation and educational facilities, abolition of piece-rate wages, an insurance scheme and welfare fund, were noted by the Court which recorded its appreciation of the Committee's work. Other reports referred to by the Court are subsequently detailed.

The Scope of the Petition

The magnitude of child labour is dwelt upon taking into account the estimates of Neera

Burra's study published under "Born to Work", the 1981 census figures in the absence of the 1991 census, National Sample, Surveys dating from 1972-73 and non-governmental sources. In light of these estimates, the Court saw fit to "travel beyond the confines of Sivakasi", to which the petition was related, "to deal with a wider spectrum and broader perspective". Addressing child labour therefore as a "national problem", the Court sought to proffer a solution.

Addressing the Problem

In arriving at a solution, the Court explores the legal terrain to accomplish the eradication of child labour. The constitutional mandate is detailed, namely Articles 24, 39 (e) and (f), 41, 45 and 47. The elevation of Article 45 (on the State's duty to provide free and compulsory education to children upto the age of fourteen) to the status of a fundamental right in Unni Krishnan, 1993-I, SCC 645, is noted by the Court. International commitments including the convention on the rights of the child as well as the role of the International Labour Organisation and its conventions are touched upon. Subsequently, Statutory, Provisions prohibiting child labour are listed.

The Court avers that providing an alternative source of income to the family is a pre-requisite to eradicate child labour. It directs the State to provide employment to the adult in the family in lieu of the child working in a factory or a mine or other hazardous work. Employers of children must pay Rs. 20,000 as per the provisions of the Child Labour (Prohibition and Regulation) Act, 1986. The fine is to be deposited in a child Labour

Article 24-prohibits employment of children in any factory, mine or hazardous employment.

Article 39 (e) - protection of children from abuse.

Article 39 (f)- protection of childhood against moral and material abandonment.

Article 41 - State to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment.

Article 45 - State to provide free and compulsory education for all children until they complete the age of fourteen years.

Article 47 - Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Rehabilitation-cum -Welfare Fund. The State's contribution is fixed at Rs. 5000/- for each child employed in a factory or mine or other hazardous employment in the absence of a job provision for the adult of the family. Such child labour is to be identified by a survey to be completed within six months. The industries identified for priority action under the National Child Labour Policy are to be tackled initially.

In the absence of alternative employment, the adult parent/guardian will be paid the income earned on the Corpus Fund, the suggested amount being fixed at Rs. 25,000/- for each child every month, which payment will cease if the child is not being sent for education. In the case of non-hazardous employment, the employer will bear the cost of education.

The district is determined as the unit of collection. Its executive head is to oversee the work of the Inspectors who must enforce free and compulsory education under the mandate of Article 45 as well as monitor the working hours of children in non-hazardous employ.

Punitive action, monetary and penal, against offending employers as per the provisions of the Child labour (Prohibition and Regulation) Act, 1986 is recommended by the Court.

The Secretary to the Ministry of Labour is to apprise the Court of compliance with its directions after the period of year. The petitioner is free to approach the Court for further or other orders in light of the compliance report.

Highlights

The judgement has served to give a fresh impetus to eradicate child labour and created a climate that frowns upon its practice by the clear statement that "the abolition of child labour is definitely a matter of great public concern and significance". The Court's directions *vis-a-vis* the establishment of a Corpus Fund and alternative employment are path-breaking. The Court insists on punitive action against offending employers as per the provisions of the Child Labour (Prohibition and Regulation) Act, 1986 : "Every offending employer must be asked to pay compensation for every child employed in contravention of the provisions of the Act, a sum of Rs.20,000/-"

and "penal provisions would be used where employment of child labour, prohibited by the Act would be found." The State's responsibility towards assuring the rights of children is undelined by the Court's directions to it to provide adults with employment in lieu of the child or contribute Rs. 5,000/- to the Corpus.

However, the judgement falls short of the expectations raised due to the framework in which it is couched.

Limitations

The court having categorically stated the constitutional mandate against child labour - "employment of a child below the age of 14 is constitutional indiction in so far as work in any factory or mine or hazardous work" (Article 24) and " all children should be given education till the age of 14" (Article 45) - reverts to the Child Labour (Prohibition and Regulation) Act, 1986, which does not follow the definition of a child laid down by the Constitution. This belies the expectation that the Court having considered the constitutional mandate would have gone beyond the Child Labour (Prohibition and Regulation Act), 1986. The Court could have asked for a review of the Act, demanding the record of its implementation and taken cognizance of the Task Force recommendations on it.

The enforcement of the Court's directions rests with an institutional machiner that has not jailed a single offending employery even ten years after the Child Labour (Prohibition and Regulation) Act, 1986. The Court places faith in an implementation mechanism that has not succeeded in enforcing free and compulsory education even fifty years after Independence.

The judgement inheres in the 'poverty as cause' argument which it notes is supported by a 1981 Report of the Ministry of Labour. The Court records that "poverty is the basic reason which compels parents of a child, despite their unwillingness, to get it employed." Leading from this, the court concludes that education by itself cannot eradicate child labour. It is of the view that "till an alternative income is assured to the family, the question of abolition of child labour would really remain a will-o'-the wishp."

The Court has granted wide latitude to the State in implementing its directions, by

miterating the conditional clause of Article 41, which speaks about the right to work "within the limits of the economic capacity and development of the State." The State is hence exempted "at this stage" from "assuring alternative employment in every case as it "would strain the resources of the State." The Court thereby contradicts its own conclusion, reached after examining other developing nations which have done better in removing children from the labour force and establishing compulsory, universal, primary school education, that (what) has caused the problem of child labour to persist here is really not dearth of resources, but lack of zeal. Let this not continue."

The Advocates Committee had recommended that the State match the contribution of employees to for the Corpus Fund. In view of the massive subsidies to industries, in the form of tax exemption and the like, this is a glaring omission and gives the lie to the excuse of a resource crunch.

The Court's delineation of the areas of action are founded on the National Child Labour Policy and the Child Labour Policy and the Child Labour (Prohibition and Regulation) Act, 1986, The Court therefore adheres to their differentiation between hazardous and non-hazardous employment. The differentiation derives from the lexicon of industrial occupations and has reference to adult employment. To apply it to child labour is to ignore the de facto violation of their basic rights and restrict action to 3 % to 5 % of the child labour force. Moreover, while an occupation can be described along a continuum, regardless of its nature, it entails exploitation where children are involved. Hence, every child labourer is a priority and the non-hazardous/hazardous nature of employment cannot be

applied as a criterion. The Action Plan for the Elimination of Child Labour through a Multi-Sectoral Approach for Sivakasi, 1994 with its six-pronged strategy (Household Economy and Area Development, Industry, Enforcement and Legal Framework, Education, Communication and Social Mobilisation, Management and Administration has been overlooked.

The parent/guardian of the child would be paid the income earned on the Corpus, which would be a sum of Rs. 25,000 for each child every month. In actual terms, even at 12 % interest rate, the monthly income would amount to Rs. 300/- on the Corpus of Rs. 25,000, hardly sufficient to subsist the food, education and other needs of the child.

The onus of getting the child educated is placed on the parent/guardian, failing which alternative employment or payment from the Child Labour Rehabilitation-cum-Welfare fund will cease. The punitive action does not consider the fallout on the child and neglects the role of the relevance of the education system in retaining the child in school. The Corpus Fund and alternative employment are operative only in the case of children in hazardous employ, leaving open the question of other child labourers.

Conclusion

The verdict has squarely recognised child labour as a "national problem" and its directions for the rehabilitation of child labour are laudatory. However, having traversed the constitutional vista to tackle, child labour, the Court chose to confine itself largely to the Child Labour (Prohibition and Regulation) Act, 1986, in its directions to the State. In the ultimate analysis, this has led the judgement to fall short of its promise to provide a "wider spectrum and broader perspective" on the problem of child labour.



**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. 465 OF 1986
(Under Article 32 of the Constitution of
India)**

M. C. Mehta ... Petitioner
vs.

State of Tamil Nadu and Others ... Respondents

THE 10TH DAY OF DECEMBER 1996

Present :

Hon'ble Mr. Justice Kuldip Singh
Hon'ble Mr. Justice B. L. Hansaria
Hon'ble Mr. Justice S. B. Majumdar

Petitioner-in-persons (NP)
A. Mariarputham and Mrs. Aruna Mathur,
Adv. for the State
K.T.S. Tulsi, Additional Solicitor General
C. B. Babu, V. K. Verma, R. A. Perumal,
Adv. with him for the Respondents.

J U D G E M E N T

The following judgment of the Court was delivered:

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. 465 OF 1986**

M. C. Mehta ... Petitioner
vs.

State of Tamil Nadu and others ... Respondents

J U D G E M E N T

HANSARIA J.

"I am the child.
All the world waits for my coming.
All the earth watches with interest to see what
I shall become.
Civilization hangs in the balance.
For what I am, the world of tomorrow will be.
I am the child.
You hold in your hand my destiny.
You determine largely, whether I shall succeed
or fail.
Give me, I pray you, these things that makes
for happiness.
Train me, I beg you, that I may be a blessing
to the world

Mamie Gene Cole

1. It may be that the aforesaid appeal lies at the back of the saying that "child is the father of man". To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.
2. Our Constitution makers, wise and sagacious as they were, had known that India of their vision would not be a reality if the children of the country are not nurtured and educated. For this, their exploitation by different profit makers for their personal gain had to be first indicted. It is this need, which has found manifestation in Article 24, which is one of the two provisions in part IV of our Constitution on the fundamental right against exploitation. The framers were aware that this prohibition alone would not permit the child to contribute its mite to the nation building work unless it receives at least basic education. Article 45 was therefore inserted in our paramount parchment casting a duty on the state to endeavour to provide free and compulsory education to children (It is known that this provision in Part IV of our Constitution is, after the decision by a Constitution Bench of this court in Unni Krishnan, 1993-1 SCC 645, has acquired the status other provisions also to which we shall advert later, desiring that a child must be given opportunity and facility to develop in a healthy manner.
3. Despite the above, the stark reality is that in our country like many others, children are exploited lot. Child labour is a big problem and has remained intractable, even after about 50 year of our having become independent, despite various legislative enactments, to which we shall refer in detail subsequently, prohibiting employment of a child in a number of occupations and avocations.
- 3a. In our country, Sivakasi was once taken as the worst offender in the matter of violating prohibition of employing child labour. as the situation there had become

intolerable, the public spirited lawyer. Shri M. C. Mehta, thought it necessary to invoke this courts power under Article 32, as after all the fundamental right of the children guaranteed by Article 24 was being grossly violated. He, therefore, filed this petition. It once came to be disposed of by an order of October 31, 1990 by noting that in Sivakasi, as on December 31, 1985, there were 221 registered match factories employing 27,338 workmen of whom 2941 were children. The Court then noted that the manufacturing process of matches and fireworks (for the manufacture of which aslo Sivakasi is a traditional Centre) is hazardous, giving rise to accidents including fatal cases. So, keeping in view the provisions contained in Article 39 (f) and 45 of the Constitution, it gave certain directions as to how the quality of life of children employed in the factories could be improved. The court also felt the need of constituting a committee to oversee the directions given.

4. Subsequently suo-moto cognizance was taken in the present case itself when news about an "unfortunate accident", in one of the Sivakasi cracker factories was published. At the direction of the Court, Tamil Nadu Government filed a detailed counter stating, inter alia, that number of persons to die was 39. The Court gave certain directions regarding the payment of compensation and thought that an advocates committee should visit the area and make a comprehensive report relating to the various aspects of the matter, as mentioned in the order of August 14, 1991. The committee was to consist of (1) Shri R. K. Jain , a senior advocate; (2) Ms. Indira Jai Singh, another senior advocate; and (3) Shri K. C. Dua, Advocate.
5. The committee has done a commendable job, it submitted its report on 11.11.91 containing many recommendations, the summary of which is to be found at pages 24-25 of the report, reading as below :
 - (a) State of Tamil Nadu should be directed to ensure that children are not employed in fireworks factories.
 - (b) The children employed in the match factories for packing purposes must

work in a separate premises for packing.

- (c) Employers should not be permitted to take work from the children for more than six hours a day.
- (d) Proper transport facilities should be provided by the employers and State Government for travelling of the children from their homes to their work places and back.
- (e) Facilities for recreation, socialization and education should be provided either in the factory or close to the factory.
- (f) Employers should make arrangements for providing basic diets for the children and in case they fail to do so, the Government may be directed to provide for basic diet-one meal a day programme of the State of Tamil Nadu for school children may be extended to the child worker.
- (g) Piece-rate wages should be abolished and payment should be made on monthly basis. Wages should be commensurate to the work done by the children.
- (h) All the workers working in the industry, whether in registered factories or in unregistered factories, whether in cottage industry or on contract basis, should be brought under the Insurance scheme.
- (i) Welfare Fund - For Sivakasi area, instead of present committee, a committee should be headed by a retired High Court Judge or a person of equal status with two social workers, who should be answerable either to this Hon'ble Court or to the High Court as may be directed by this Hon'ble Court. Employers should be directed to deposit Rs. 2/- per month per worker towards welfare fund and the State should be directed to give the matching contribution. The employers of all the industries whether it is registered or unregistered, whether it is cottage industry or on contract basis, to deposit Rs. 2/- per month per worker.

- (j) A National Commission for children's welfare should be set up to prepare a scheme for child labour abolition in a phased manner. Such a Commission should be answerable to this Hon'ble Court directly and should report to this Hon'ble Court at periodical intervals about the progress.
6. We put on record our appreciation for the commendable work done by the committee.
 7. There is an affidavit of the President of the All India Chamber of Match Industries, Sivakasi, on record which contains its reaction to the recommendations of Committee. It is not necessary to deal with this affidavit. Objection to the Committee's recommendations was also filed by the President of Tamil Nadu fireworks and Amorges Manufactures Association. We do not propose to traverse this affidavit as well. Both of these contain general statements and denial of what was found by the committee.
 8. For the sake of completeness, It may be stated that there are on record various reports relating to working conditions etc., of child labour at Sivakasi. First of these reports is of a Committee which had been constituted by the Labour Department by the Tamil Nadu Government vide its GO MS. dated 19.3.84, under the Chairmanship of Thiru N. Haribhaskar. The report of committee is voluminous, as it runs to in 181 pages and contains a number of annexures. The Committee reviewed the working conditions and measures taken to mitigate the sufferings of the child labour and has made various recommendations in Chapter XI of its report. We also have a work of Collector of Kamarajar District titled "Integrated Project for the Betterment of Living Conditions of Women and Children Employed in Match Factories in Sivakasi area.". This work is of October 1985. There is yet another report dealing with the causes and circumstances of the fire explosions, which had taken place on 12.7.91 at Dawn Amorges Fireworks Industries and it contains remedial measures. The final report relating to Sivakasi workers is of 30th March, 1993. This relates to elimination of child labour in the match and fireworks industries in Tamil Nadu. The representatives of the Department of Labour and Employment, Social Welfare and Education had prepared this report in collaboration with UNICEF and it speaks of "A proposed strategy framework".
 9. The Government of India as well has been apprising itself about the various aspects relating to child labour in various industries. A 16 member committee had come to be set up by a resolution of the Labour Ministry dated 6/7 February, 1979 under the chairmanship of Shri M. S. Gurupadaswamy. The Committee submitted its report on 29.12.79 and made various recommendations which are contained in Chapter V. the Labour Ministry had subsequently surveyed the problem of child labour departmentally as a part of the observance of International Child Year Programme. The report (dated 24.6.81) mentions about the survey conducted in certain organised and unorganised sector of industries. It contains an account of employment, wages and earnings, working conditions and welfare activities relating to child labour both in organised and unorganised sectors. Chapter III of the report contains the conclusions, of which what has been stated in para 4, 5 deserves to be noted. The same as below.
- Extreme poverty, lack of opportunity for gainful employment and intermittancy of income and low standards of living are the main reasons for the wide prevalence of child labour. Though it is possible to identify child labour in the organised sector, which from a minuscule of the total child labour, the problem relates mainly to the unorganised sector where utmost attention needs to be paid. The problem is universal but in our case it is more crucial.
- Magnitude of the Problem**
10. Sivakasi has ceased to be the only centre employing child labour. The malady is no longer confined to that place.
 11. A write-up in *Indian Express* of 25.10.1996 has described Bhavnagar as another Sivakasi in making, as that town of about

Industry	Location	Total Workers	Child Workers	Percentage of Child workers to total workers
Slate pencil	Mandsaur, Madhya Pradesh	12,000	1,000	8.3
Slate	Markapur, Andhra Pradesh	15,000	app. 3750	25.0
Diamond-cutting	Surat, Gujarat	100,000	15,000	15.0
Agate-cutting	Cambay, Gujarat	30,000	not known	—
Gem polishing	Jaipur, Rajasthan	60,000	13,600	22.6
Powerloom	Bhiwandi, Maharashtra	300,000	15,000	5.0
Cotton hosiery	Tiruppur, Tamil Nadu	30,000	8,000	33.3
Carpet weaving	Mirzapur-Bhadohi, U.P.	200,000	150,000	75.0
Carpet weaving	Jammu & Kashmir	app. 400,00	100,000	25.0
Carpet weaving	Rajasthan	30,000	12,000	40.0
Lock making	Aligarth, Uttar Pradesh	80,000	7,000	8.7
		90,000	10,000	11.1
Pottery	Khurja, Uttar Pradesh	20,000	5,000	25.0
Brass Ware	Moradabad, Uttar Pradesh	150,000	40,000	26.6
			45,000	30.0
Match	Sivakasi, Tamil Nadu	not known	45,000	—
Glass	Firozabad, Uttar Pradesh	200,000	50,000	25.0
Silk & Silk products	Varanasi, Uttar Pradesh	11,900	4,409	37.0
Textile	Varanasi, Uttar Pradesh	3,512	1,108	31.5
Knives	Rampur, Uttar Pradesh	not known	3,000	—
Handicrafts	Jammu & Kashmir	90,000	26,478	29.42
Silk weaving	Bihar	not known	10,000	—
Brocade and	Varanasi and other Centres		—	—
Zari industry	Uttar Pradesh	not known	300,000	—
Brick-Kilns	West Bengal	not known	35,000	—
Beedi	India	3,275,000	3,27,500	10.00
Circus Industry	40 major circuses	—	12 % of the entire labour strength	—
Handloom and Handicraft Industry	Jammu & Kashmir	116,000	28,348	25.0

(Source material omitted)

4 lakh population has at least 13,000 children employed in 300 different industries. The problem of child labour in India has indeed spread its fang far and wide. This would be apparent from the chart which finds place in commendable work of a social anthropologist of United Nations and Volunteer, Neera Burra, published under the title "Born to Work": Child Labour in India", as at pages XXII to XXIV of the book. It is useful to extract that chart, it is as below :

- According to the 1971 census 4.66 per cent of the child population in India consisted of working children. In absolute numbers, the 1971 census put the figure at 10.7 million working children. On the basis of National Sample Survey 27th round (1972-73) the number of working children as on March, 1973 in the age group of 5-14 years may be estimated at 16.3 million and based on the 32 round at 16.25 million on 1st March, 1978 (14.68 million rural and 1.57 million urban).

According to 1981 census the figure has gone to 11.16 million working children. As estimated by the Planning Commission on 1st March, 1983, there would be 15.70 million child labourers, (14.03 rural and 1.67 urban) in the age group of 10-14 years and 17.36 million in the age group of 5-14 years'. The National Sample Survey Organisation estimates the numbers at 17.58 million in 1985. None of the official estimates included child workers in the unorganised sector, and therefore, are obviously gross under estimates. Estimates from various non-governmental sources as to the actual number of working children range from 44 million to 100 million.

(Figures of 1981 census have been quoted because the report relating to 1991 census has not yet been made public. It is understood that the same is under publication).

13. The aforesaid profile shows that child labour by now is an all - India evil, though its acuteness differs from area to area. So, without a concerted effort, both of the Central Government and various State governments, this ignominy would not get wiped out. We, have, therefore thought it fit to travel beyond the confines of Sivakasi to which place this petition initially related. In our view, it would be more appropriate to deal with the issue in wider spectrum and broader perspective taking it as a national problem and not appertaining to any one region of the country. So, we would address ourselves as to how we can, and are required to tackle the problem of child labour, solution of which is necessary to build a better India.

Constitution Call

13. To accomplish the aforesaid task, we have first to note the constitutional mandate and call-on the subject, which are contained in the following articles :

"24. Prohibition of employment of children in factories, etc. 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.

39 (c) 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 ;

39 (f) 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.

41. Right to work, to education and to public assistance in certain cases - 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.

45. Provision for free and compulsory education for children. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. The State shall regard the raising of the level of nutrition and the standard of living of its people and improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".

14. Of the aforesaid provisions, the one finding place in Article 24 has been a fundamental right ever since 28th January, 1950. Article 45 too has been raised to high pedestal by Unni Krishnan. Which was decided on 4th February, 1993. Though other articles are part of directive principles, they are fundamental in the governance of our country and it is the duty of all the organs of the State (a 1a Article 37) to apply these principles. Judiciary, being also one of the three principal organs of the State, has to keep the same in mind when called upon to decide matters of great

public importance. Abolition of child labour in definitely a matter of great public concern and significance.

International Commitment

15. It would be apposite to apprise ourselves also about our commitment to world community. For the case at hand it would be enough to note that India has accepted the Convention on the Rights of the Child. Which was concluded by the UN General Assembly on 20th November 1989. This Convention affirms that children's right require special protection, but also to ensure the continuous improvement in the situation of children all over the world, as well as their development and education in conditions of peace and security. Thus, the Convention not only protects the child's civil and political right, but also extends protection to child's economic, social, cultural and humanitarian rights.

16. The Government of India deposited its instrument of accession to the above - mentioned conventions on December 11, 1992, with the United Nation's Secretary - General. That instrument contains the following declaration :

"While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of the child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India ; having prescribed minimum ages for employment in hazardous occupations and in certain other areas ; having made regulatory provisions regarding hours and conditions of employment and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India-the Government of India undertakes to take measures to progressively implement the provisions of Article 32, particularly paragraph 2(a), in accordance with its national legislation and relevant international instruments to which it is a State Party."

17. Article 32 of which mention has been made in the instrument of accession reads as below:

- "1. States Parties recognise 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.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments. States Parties shall in particular :
 - (a) Provide for a minimum age or minimum ages for admission to employment.
 - (b) Provide for appropriate regulation of the hours and conditions of employment.
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article".

Statutory Provisions

18. We may now note as to how the problem of child labour has been viewed by our policy makers and what efforts have been made to take care of this evil. We have shown our concern in this sphere ever since the International Labour Organisation, set up in 1919 under the League of Nations, had felt that there should be international guidelines by which the employment of children under a certain age could be regulated in industrial undertakings. It, therefore, suggested that the minimum age of work be 12 years. The same required ratification by the Government of British India ; and during the Legislative Assembly debates, the question of raising the minimum age from 9 to 12 years had created a furore. The Hon'ble Sir Thomas Holland had said in the Legislative Assembly in February 1921 that if the minimum age were raised, the same would upset the organisational set-up of most textile mills which were the principal employers of children. On the other hand, there were those who felt that

the answer to the problem lay in compulsory primary education. The House ultimately was divided with 32 members voting for raising the minimum age to 12 and 40 voting against it. The Assembly, therefore, recommended to the Governor-General-in-Council that the Draft Convention should be ratified with certain observations.

19. May it be stated that the international Labour Organisation has been playing an important role in the process of gradual elimination of child labour and to protect child from industrial exploitation. It has focused on five main issues:

1. Prohibition of child labour.
2. Protecting child labour at work.
3. Attacking the basic causes of child labour.
4. Helping children to adapt to future work.
5. Protecting the children of working parents.

Till now 18 Conventions and 16 recommendations have been adopted by the ILO in the interest of working children all over the world.

20. To continue our nation of steps taken here, a Royal Commission on Labour came to be established in 1929 to inquire in to various matters relating to labour in this country. The report came to be finalised in 1931. It brought to light many inequities and shocking conditions under which children worked. The Commission had examined the conditions of child labour in different industries and had found that children had been obliged to work any number of hours per day as required by their master. It was also found that they were subject to corporal punishment. The Commission had felt great concern at the placing of children by parents to employers in return for small sums of money; and as this system was found to be indefensible it recommended that any bond placing a child should be regarded as void.

21. The recommendations of the Commission came to be discussed in the Legislative assembly and the Children (Pledging of Labour) Act, 1933 came to be passed,

which may be said to be the first statutory enactment dealing with child labour. Many statutes came to be passed there after. As on today. The following legislative enactments are in force, prohibiting employment of child labour in different occupations :

(i) Section 67 of Factories Act, 1948 :

"Prohibition of employment of young children - No child who has not completed his fourteenth year shall be required or allowed to work in any factory".

(ii) Section 24 of Plantation Labour Act, 1951:

"No child who has not completed his twelfth year shall be required or allowed to work in any plantation".

(iii) Section 109 of Merchant Shipping Act, 1951 :

"No person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except -

- (a) in a school ship, or training ship, in accordance with the prescribed conditions ; or
- (b) in a ship in which all persons employed are members of one family ; or
- (c) in a home-trade ship of less than two hundred tons gross ; or
- (d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative".

(iv) Section 45 of Mines Act, 1952 :

(1) "No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any (open cast working) in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on".

(vi) Section 21 of Motor Transport Workers Act, 1961 :

"No child shall be required or allowed to work in any capacity in any motor transport undertaking."

(vi) Section 3 of Apprentices Act, 1961 :

Qualifications for being engaged as an apprentice : - A person shall not be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade, unless he -

- (a) is not less than fourteen years of age, and
- (b) satisfies such standards of education and physical fitness as may be prescribed.

Provided that different standards may be prescribed in relation to apprenticeship training in different designated trades and for different categories of apprentices.

(vii) Section 24 Beedi and Cigar Workers (Conditions of Employment) Act, 1966:

"Prohibition of employment of children - No child shall be required or allowed to work in any industrial premises.

(viii) Child Labour (Prohibition and Regulation) Act, 1986 : (Act 61 of 1986)

(ix) Shops and Commercial Establishment Acts under different nomenclatures in various States.

22. The aforesaid shows that the legislature has strongly desired prohibition of child labour. Act 61 of 1986 is, *ex facie*, a bold step. The provisions of this Act, other than Part III came into force at once and for Part III to come into force, a notification by the Central Government is visualised by section 1(3), which notification covering all classes of establishments throughout the territory of India was issued on May 26, 1993.

23. Section 3 of this Act has prohibited employment of children in certain occupations and processes. Part A of the Schedule to the Act contains the names of the occupations in which no child can be employed or permitted to work; and in Part B names of some processes have been mentioned in which no child can be

employed or permitted to work. It would be profitable to quote Parts A and B of the Schedule which read as below :

Part A

Occupations

Any occupation connected with -

- (1) transport of passengers, goods or mails by railways ;
- (2) cinder pickling, clearing of an ash pit or building operation in the railway premises ;
- (3) work in a catering establishment at a railway station involving the movement of a vendor or any other employee or establishment from one platform to another or into or out of a moving train ;
- (4) work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines; and
- (5) a port authority within the limits of any port.

Part B

Process :

- (1) Beedi-making
- (2) Carpet-weaving
- (3) Cement manufacture, including bagging a cement.
- (4) Cloth printing, dyeing and weaving
- (5) Manufacturing of matches, explosives and fire-works
- (6) Mica-cutting and splitting
- (7) Shellac manufacture
- (8) Soap manufacture
- (9) Tanning
- (10) Wool-cleaning
- (11) Building and construction industry

24. Section 14 of the Act has provided for punishment upto 1 year (minimum being 3 months) or with fine upto Rs.20,000/- (minimum being ten thousand) or with both, to one who employs or permits any child to work in contravention of provisions in section 3. Even so, it is common experience that child labour continues to be employed. As to why this

has happened despite the Act of 1986, has come to be discussed by Neera Burra, in her aforementioned book at pages 246 to 250 of the 1995 edition. It has been first pointed out that the occupations and process dealt by the Act are same about which the repealed statute (Employment of Children Act, 1938) had mentioned, except that in Part B, one process had been added - the same being "building and construction industry".

According to Neera there are a number of loopholes in the Act, which has made it "completely ineffective instrument for the removal of children working in industry". One of the clear loopholes mentioned is that children can continue to work if they are a part of family of labour. It is not necessary for our purpose to go into other infirmities pointed out. Nonetheless, it deserves to be pointed out that the Act does not use the word "hazardous" anywhere, the implication of which is the children may continue to work in those processes not involving chemicals. Neera has tried to show how impracticable and unrealistic it is to draw a distinction between hazardous and non-hazardous processes in a particular industry. The suggestion given is that what is required is to list the whole industry as banned for child labour, which would make the task of enforcement simpler and strategies of evasion more difficult.

Failure : Causes

25. We have, therefore to see as to why is it that child labour has continued despite the aforesaid statutory enactments. This has been a subject of study by a good number of authors. It would be enough to note what has been pointed out in "Indian Child Labour" by Dr. J. C. Kulshreshtha. This aspect has been dealt in Chapter II. According to the author, the causes of failure are : (1) poverty ; (2) low wages of the adult; (3) unemployment ; (4) absence of schemes for family allowance ; (5) migration to urban areas ; (6) large families; (7) children being cheaply available; (8) non-existence of provisions for compulsory education ; (9) illiteracy and ignorance of parents ; and (10) traditional attitudes. Nazir Ahmed Shah has also expressed similar views in his book "Child Labour in India". In the article at pages

65 to 68 of 1993 (3) SCJ (Journal Section) titled "Causes of the exploitation of child labour in India". Dr. Amar Singh and Raghuvinder Singh, Who are attached to Himachal Pradesh University have taken the same views.

26. Of the aforesaid causes it seems to us that the poverty is basic reason which compels parents of a child despite their unwillingness, to get it employed. The Survey Report of the Ministry of Labour (supra) had also so stated. Otherwise, no parents, specially no mother would like that a tender aged child should toil in a factory in a difficult condition, instead of it enjoying its childhood at home under the paternal gaze.

What to do ?

27. It may be that the problem would be taken care of to some extent by insisting on compulsory education. Indeed, Neera thinks that if there is at all a blueprint for tackling the problems of child labour, it is education. Even if it were to be so, the child labour, it is education. Even if it were to be so, the child of a poor parent would not receive education, if per force it has to earn to make the family meet both the ends. Therefore, unless the family is assured of income alounde, problem of child labour would hardly get solved ; and it is this vital question which has remained almost unattended. We are, however, of the view that till an alternative income is assured to the family, the question of abolition of child labour would really remain a will-of-the wisp. Now, if employment of child below the age of 14 is a constitutional induction in so far as work in any factory or mine or engagement in other hazardous work and if it has to be seen that all children are given education till the age of 14 years in view of this being a fundamental right now, and if the wish embodied in Article 39(e) that the tender age of children is not abused and citizens are not forced by economic necessity to enter avocation unsuited to their age, and citizens are not forced by economic necessity to enter avocation unsuited to their age, and if children are to be given opportunities and facilities to

develop in a healthy manner and childhood is to be protected against exploitation as visualised by Article 39 (f), it seems to us that the least we ought to do is see to the fulfilment of legislative intent behind enactment of the Child Labour (Prohibition and Regulation) Act, 1986. Taking guidance therefrom, we are of the view that the offending employer must be asked to pay compensation for every child employed in contravention of the provision of the Act a sum of Rs. 20,000/- and the inspectors, whose appointment is visualised by section 17 to secure commencement with the provisions of the Act, should do this job. The inspectors appointed under section 17 would see that for each child employed in violation of the provisions of the Act, the concerned employer pays Rs. 20,000/- which sum could be deposited in a fund to be taken as Child Labour Rehabilitation - cum - Welfare Fund. The liability of the employer would not cease even if he would desire to disengage the child presently employed. It would perhaps be appropriate to have such a fund district wise or area wise. The fund so generated shall form corpus whose income shall be used only for the concerned child. The quantum could be the income earned on the corpus deposited qua the child. To generate greater income, fund can be deposited in high yielding scheme of any nationalised bank or other public body.

28. As the aforesaid income could not be enough to dissuade the parent / guardian to seek employment of the child the state owes a duty to come forward to discharge its obligation in this regard. After all, the aforementioned constitutional provisions have to be implemented by the appropriate Government, which expression has been defined in section 2 (i) of the Act to mean, in relation in establishment under the control of the Central Government or a railway administration or a minor part of a mine or outfield, the Central Government, and in all other cases, the State Government.
29. Now, strictly speaking a strong case exists to invoke the aid of an Article 41 of the Constitution regarding the right to work

and to give meaning to what has been provided in Article 47 relating to raising of standard of living of the population, and Article 39 (e) and (f) as to non-abuse of tender age of children and giving opportunities and facilities to them to develop in healthy manner, for asking the State to see that an adult member of the family, whose child is in employment in a factory or a mine in other hazardous work, gets a job anywhere, in lieu of the child. This would also see the fulfilment of the wish contained in article 41 after about half a century of its being in the Paramount Parchment. Like primary education desired by Article 45, having been given the status of fundamental right by the decision in Unni Krishnan. We are, however, not asking the State at this stage to ensure alternative employment in every case covered by Article 24, as Article 41 speaks about right to work "within the limits of the economic capacity and development of the State". The very large number of child-labour in the aforesaid occupations would require giving of job to very large number of adults, if we were to ask the appropriate Government to assure alternative employment in every case, which would strain the resources of the State, in every case, which would strain the resources of the State, in case it would not have been able to secure job for an adult on a private sector establishment or, for that matter, in a public sector organisation. We are not issuing any direction to do so presently. Instead, we leave the matter in a public sector organisation. We are not issuing any direction to do so presently. Instead, we leave the matter to be sorted out by the appropriate, Government. In those cases where it would not be possible to provide job as above mentioned, the appropriate Government would, as its contribution / grant, deposit in the aforesaid Fund a sum of Rs. 5,000/- for each child employed in a factory or mine or in any other hazardous employment.

30. The aforesaid would either see an adult (whose name would be suggested by the parent/guardian of the concerned child) getting a job in lieu of the child, or deposit

of a sum of Rs. 25,000/- in the Child Labour rehabilitation-cum-Welfare Fund. In case of getting employment for an adult, the parents/guardian shall have to withdraw his child from the job. Even if no employment would be provided, the parent/guardian shall have to see that his child is spared from the requirement to do the job, as an alternatives source of income would have become available to him.

31. To give shape to the aforesaid directions, we require the concerned States to do the following:

(1) A survey would be made of the aforesaid type of child labour which would be completed within six months from today.

(2) To start with work could be taken in regarding those, employments which have been mentioned in Article 24, which may be required as core sector, to determine which the hazardous aspect of the employment would be taken as criterion. The most hazardous employment may rank first in priority, to be followed by comparatively less hazardous and so on. It is may be mentioned here that the National Child Labour Policy as announced by the Government of India has already identified some industries for priority action and the industries identified are as below :

The match industry in Sivakasi, Tamil Nadu

The diamond polishing industry in Surat, Gujarat

The precious stone polishing industry in Jaipur, Rajasthan.

The glass industry in Firozabad, Uttar Pradesh

The brass ware industry in Moradabad, Uttar Pradesh

The hand-made carpet industry in Mirzapur-Bhadohi, Uttar Pradesh

The lock - making industry in Aligarh, Uttar Pradesh

The slate industry in Markapur, Andhra Pradesh

The slate industry in Mandasaur, Madhya Pradesh

(3) The employment to be given as per our direction could be dovetailed to other assured employment. On this being done. It is apparent that our direction would not require generation of much additional employment.

(4) The employment so given could as well be the industry where the child is employed a public undertaking and would be manual in nature in as much as the child in question must be engaged in doing manual work. The understanding chosen for employment shall be one which is nearest to the place of residence of the family.

(5) In those cases where alternative employment would not be made available as aforesaid, the parent/guardian of the concerned child would be paid the income which would be earned on the corpus, which would be a sum of Rs. 25,000/- for each child, every month. The employment given or payment made would cease to be operative if the child would not be sent by the parent/guardian for education.

(6) On discontinuation of the employment of the child, his education would be assured in suitable institution with a view to make it a better citizen. It may be pointed out that Article 45 mandates compulsory education for all children until they complete the age of 14 years. It is also required to be free. It would be the duty of the inspectors to see that this call of the Constitution is carried out.

(7) A district could be the unit of collection so the executive head of the district keep a watchful eye on the work of the inspectors. Further, in view of the magnitude of the task, a separate cell in the Labour Department of the appropriate government would be created. Monitoring of the scheme would also be necessary and the Secretary of the Department could perhaps do this work. Over all monitoring by the Ministry of Labour Government of India, would be beneficial and worth while.

- (8) The Secretary to the Ministry of Labour, Government of India would apprise this Court within one year of today about the compliance of aforesaid directions. If the petitioner would need any further or other order in the light of the compliance report, it would be open to him to do so.
- (9) We should also like to observe that on the direction given being carried out, penal provision contained in the aforesaid 1986 Act would be used where employment of a child labour, prohibited by the Act would be found.
- (10) In so far as the non-hazardous jobs are concerned, the Inspector shall have to see that the working hours of the child are not more than four to six hours a day and it receives education at least for two hours each day. It would also be seen that the entire cost of education is borne by the employer.
- III. The task is big, but not as to prove either unwieldy or burdensome. The financial implication would be such as to prove a damper, because the money after all would be used to build up a better India. In this context, it is worth pointing out that poverty as such has not stood in the way of other developing countries from taking care of child labour. It has been pointed out by Myron Weiner (at page 4 of 1991 Edition) of his book "The Child and the

State in India" that India is a significant exception to the global trend toward the removal of children from the labour force and the establishment of compulsory, universal primary school education, as many countries of Africa like Zambia, Ghana, Ivory Coast, Libya, Zimbabwe, with income levels lower than India, have done better in these matters. This shows that has caused the problem of child labour to persist here is really not dearth of resources, but lack of real zeal. Let this not continue. Let us all put our head and efforts together and assist the child for its good and greater good of the country.

33. The writ petition is disposed of accordingly.
34. We part with the fond hope that the closing years of the twentieth century would see us keeping the promise made to our children by our constitution about a half-century ago. Let the child or twenty-first century find himself into that "heaven of freedom" of which our poet laureate Rabindranath Tagore has spoken in *Gitanjali*.
35. Let a copy of this judgement be sent to Chief Secretaries of all the State Governments and Union Territories ; so also to the Secretary, Minister of Labour, Government of India for their information and doing the needful.



Text of the child labour (Prohibition and regulation) Act, 1986

(61 of 1986)

(23rd December, 1986)

An Act to prohibit the engagement of children in certain employment and regular and to regulate the conditions of work of children in certain other employments.

BE it enacted by Parliament in the Thirty - seventh year of the Republic of India as follows :

PART I

PRELIMINARY

1. Short title, extent and commencement:

- (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.
- (2) It extends to the whole of India.
- (3) The provisions of this Act, other than Part III, shall come into force at once, and Part III shall come into force on such date * as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different states and for different classes of establishments.

2. Definitions : In this Act, unless the context otherwise requires, -

- (i) "appropriate Governments" means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government ;
- (ii) "child" means a person who has not completed his fourteenth year of age;
- (iii) "day" means a period of twenty-four hours beginning at midnight ;
- (iv) "establishment" includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment ;
- (v) "family", in relation to an occupier,

means the individual, the wife or husband, as the age may be, of such individuals and their children brother or sister of such individual;

(vi) "occupier" in relation to an establishment or a workshop means the person who has the ultimate control over the affairs of the establishment or workshop;

(vii) "port authority" means any authority administering a port;

(viii) "prescribed" means prescribed by rules made under section 18 ;

(ix) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector ;

(x) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being apply.

PART II

PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

3. Prohibition of employment of children in certain occupations and processes :

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on.

Provided that nothing in this section shall apply to any workshop where in any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistants or recognition from the Government.

4. **Power to amend the Schedule :** The Central Government after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

5. **Child Labour Technical Advisory Committee :**

(1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the "Child Labour Technical Advisory Committee" (hereafter in this section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do, constitute one or more sub-committee, and may appoint any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.

(5) The term of office of, the manner of filling casual vacancies in the office of, and the allowances, if any payable to, the chairman and other members of the Committee, and the conditions and restrictions subject to which the committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.

or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

7. **Hours and period of work :**

(1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in writing for work on any day.

(4) No child shall be permitted or require to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishments.

8. **Weekly holidays :** Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

9. **Notice to Inspector :**

(1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely :

PART III

REGULATION OF CONDITIONS OF WORK OF CHILDREN

6. **Application of Part :** The provisions of the part shall apply to an establishment

- (a) the name and situation of the establishment ;
- (b) the name of the person in actual management of the establishment ;
- (c) the address to which communications relating to the establishment should be sent ; and
- (d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1)

Explanation : For the purposes of sub-sections (1) and (2) "date of commencement of this Act, in relations to an establishment" means the date of bringing into force of this Act in relation to such establishment.

(3) **Nothing in sections 7, 8 and 9** shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

10. **Disputes as to age :** If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.
11. **Maintenance of register :** There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing -

- (a) the name and date of birth of every child so employed or permitted to work ;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled ;
- (d) such other particulars as may be prescribed.

12. **Display of notice containing abstracts of sections 3 and 14 :** Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

13. **Health and safety :**

(1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely :

- (a) cleanliness in the place of work and its freedom from nuisance ;
- (b) disposal of wastes and effluents ;
- (c) ventilation and temperature ;
- (d) dust and fume ;
- (e) artificial humidification ;
- (f) lighting ;
- (g) drinking water ;
- (h) latrine and urinals ;
- (i) spittoons ;
- (j) fencing of machinery ;
- (k) work at or near machinery in motion;
- (l) employment of children on dangerous machines;
- (m) instructions, training and supervision in relation to employment of children on dangerous machines ;
- (n) device for cutting off power ;

- (b) self-acting machines ;
- (c) easing of new machinery ;
- (d) floor, stairs and means of access ;
- (e) pits, sumps, openings in floors etc. ;
- (f) excessive weights ;
- (g) protection of eyes ;
- (h) explosive or inflammable dust, gas, etc. ;
- (i) precautions in case of fire ;
- (j) maintenance of buildings ; and
- (k) safety of buildings and machinery ;

PART IV

MISCELLANEOUS

14. Penalties :

(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence, afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever :

- (a) fails to give notice as required by section 9 ; or
- (b) fails to maintain a register as required by section 11 or makes any false entry in any such register ; or
- (c) fails to display a notice containing an abstract of section 3 and this section as required by section 12 ; or
- (d) fails to comply with or contravenes any other provisions of this Act or the rules made there under ;

shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

15. Modified application of certain laws in relation to penalties :

(1) Where any person is found guilty and

convicted of contravention of any of the provisions mentioned in sub-section (2) he shall be liable to penalties as provided in sub-sections (1) and (2) of section 14 of this Act and not under the Acts in which those provisions are contained.

(2) The provisions referred to in sub-section (1) are the provisions mentioned below :

- (a) section 67 of the Factories Act, 1948 (63 of 1948) ;
- (b) section 40 of the Mines Act, 1952 (35 of 1952) ;
- (c) section 169 of the Merchant Shipping Act, 1958 (44 of 1958) ; and
- (d) section 21 of the Motor Transport Workers Act, 1961 (27 of 1961).

16. Procedure relating to offences :

(1) Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

17. **Appointment of Inspectors :** The appropriate Government may appoint Inspectors for the purposes of securing compliance with the provisions of this Act and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

18. Power to make rules :

(1) The appropriate Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) the term of office of the manner of filling casual vacancies of, and the allowances payable to, the Chairman and members of the Child Labour Technical Advisory Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of section 5 ;
- (b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;
- (c) grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued ;

Provided that no change shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned:

- (d) the other particulars which a register maintained under section 11 should contain.
- 19. Rules and notifications to be laid before Parliament or State Legislature:**
- (1) Every rule made under this Act by the Central Government and every notification issued under section 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the legislature of that State.

20. Certain other provisions of law not barred : Subject to the provisions contained in section 15, the provisions of this Act and the rules made the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948 (63 of 1948), the Plantations Labour Act, 1951 (69 of 1951) and the Mines Act, 1952 (35 of 1952)

21. Power to remove difficulties :

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty ;

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

22. Repeal and savings :

(1) The employment of Children Act, 1938 (26 of 1938) is hereby repealed.

(2) Now withstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

23. Amendment of Act 11 of 1948 - In section 2 of the Minimum Wages Act, 1948 :

(i) for clause (a), the following clauses shall be substituted, namely :-

(a) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year ;

(aa) "adult" means a person who has completed his eighteenth year of age ;

(a) after clause (b), the following clause shall be inserted, namely :-

(bb) "child" means a person who has not completed his fourteenth year of age.

24. **Amendment of Act 69 of 1951 :** In the Plantations Labour Act, 1951 -

(a) In section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted ;

(b) section 24 shall be omitted ;

(c) in section 26, in the opening portion, the words "who has completed his twelfth year" shall be omitted.

25. **Amendment of Act 44 of 1958 :** In the Merchant Shipping Act, 1958, in section 109, for the word "fifteen", the word "fourteen" shall be substituted.

26. **Amendment of Act 27 of 1961 :** In the Motor Transport Workers Act, 1961, in section 2, in clauses (a) and (c) for the word "fifteenth", the word "fourteenth" shall be substituted.

THE SCHEDULE

(See Section 3)

PART A

Occupations : Any occupation connected with :

- (1) Transport of passengers, goods or mails by railway ;
- (2) Cinder picking, clearing of an ash pit or building operation in the railway premises;
- (3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
- (4) Work relating to the construction of a railway station or with any other work where such work is done in close proximity or between the railway lines;
- (5) A port authority within the limits of any port ;
- (6) Work relating to selling of crackers and fireworks in shops with temporary licences ;
- (7) Abattoirs/Slaughter Houses.

PART B PROCESSES

- (1) Bidi-making
- (2) Carpet-weaving
- (3) Cement manufacture, including bagging of cement.
- (4) Cloth printing, dyeing and weaving.
- (5) Manufacture of matches, explosives and fire works.
- (6) Mica cutting and splitting
- (7) Shellac manufacture.
- (8) Soap manufacture.
- (9) Tanning
- (10) Wool-cleaning
- (11) Building and construction industry
- (12) Manufacture of slate, pencils (including packing).
- (13) Manufacture of products from agate.
- (14) Manufacture process using toxic metals and substances such as Lead, Mercury, Manganese, Chromium, Cadmium, Benzene. Pesticides and Asbestos.
- (15) Hazardous processes as defined in Section 2 (cb) and 'dangerous operations' as notified in rules made under section 87 of the Factories Act, 1948 (63 of 1948)
- (16) Printing as defined in Section 2 (k) (iv) of the Factories Act, 1948 (63 of 1948)
- (17) Cashew and cashewnut descaling and processing.
- (18) Soldering process in electronic industries.

THE CHILD LABOUR (PROHIBITION AND REGULATION RULES, 1988)

G. S. R. 847 (E) : Where as the draft of certain rules was published as required by sub-section (1) of section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), in the Gazette of India, Extraordinary, Part II - Section 3, Sub-section (i) dated the 8th October 1987, under the notification of the Government of India in the Ministry of Labour, No. G. S. R. 845 (E), dated the 8th October 1987, inviting objections and suggestions from all persons likely to be

affected thereby till the expiry of a period of thirty days from the date of publication of the said notification in the Official Gazette ;

And whereas the said Gazette was made available to the public on the 4th November 1987 ;

And whereas the objections and suggestions received from the public on the said draft have been considered by the Central Government ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 18 of the said Act, the Central Government, hereby makes the following rules, namely :-

1. Short title and commencement :

- (a) These rules may be called the Child Labour (Prohibition and Regulation) Rules, 1988.
- (b) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions : In these rules, unless the context other wise requires :

- (a) "Act" means the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986);
- (b) "Committee" means the Child Labour Technical Advisory Committee constituted under sub-section (1) of section 5 of the Act ;
- (c) "Chairman" means the Chairman of the Committee appointed under sub-section (2) of section 5 of the Act ;
- (d) "Form" means a form appended to these rules ;
- (e) "Register" means the register required to be maintained under section 11 of the Act ;
- (f) "Schedule" means the Schedule appended to the Act ;
- (g) "Section" means a Section of the Act.

3. Term of office of the members of the Committee :

- (a) The term of office of the members of the Committee shall be one year from the date on which their appointment is notified in the Official Gazette :

Provided that the Central Government

may extend the term of office of the member of the Committee for a maximum period of two years :

Provided further that the member shall, notwithstanding the expiration of his term continue to hold office until his successor enters upon his office.

- (b) The members appointed under sub-rule (1) shall be eligible for reappointment.

4. Secretary to the Committee : The Central Government may appoint an officer not below the rank of an Under Secretary to the Government of India, as Secretary of the Committee.

5. Allowances to non-official members : The non - official members and Chairman of the Committee shall be paid such fees and allowances as may be admissible to the officers of the Central Government drawing a pay of rupees four thousand and five hundred or above.

6. Resignation :

- (a) A member may resign his office by writing under his hand addressed to the Chairman.
- (b) The Chairman may resign his office by writing under his hand addressed to the Central Government.
- (c) The resignation referred to in sub-rule (1) and sub-rule (2) shall take effect from the date of its acceptance or on the expiry of thirty days from the date of receipt of such resignation, whichever is earlier, by the Chairman or the Central Government as the case may be.

7. Removal of Chairman or member of the Committee: The Central Government may remove the Chairman or any member of the Committee at any time before the expiry of the term of office after giving him a reasonable opportunity of showing cause against the proposed removal.

8. Cessation of membership : If a member-

- (a) is absent without leave of the Chairman for three or more consecutive meetings of the Committee; or
- (b) is declared to be unsound mind by a competent court ; or
- (c) is or has been convicted of any

offence which, in the opinion of the Central Government, involves moral turpitude ; or

(b) is, or at any time, has been adjudicated insolvent or has suspended his debts or has compounded with his creditors shall cease to be a member of the Committee.

9. **Filling up casual vacancies :** In case a member resigns his office under rule 6 or ceases to be a member under rule 8, the casual vacancy thus caused shall be filled up by the Central Government and the member so appointed shall hold office for this unexpired portion of the term of his predecessor.

10. **Time and place of meetings :** The Committee shall meet at such times and places as the Chairman may fix in this behalf.

11. **Notice of meetings :** The Secretary to the Committee shall give at least seven days notice to every member of the Committee of the time and place fixed for each meeting along with the list of business to be transacted at the said meeting.

12. **Presiding at meetings :** The Chairman shall preside at every meeting of the Committee at which he is present; if, however, the Chairman is unable to attend a meeting, any member elected by the members present, among themselves shall preside at the meeting.

13. **Quorum :** No business shall be transacted at a meeting of the Committee unless atleast three members of the Committee other than the Chairman and the Secretary are present.

Provided that at any meeting in which less than three of the total members are present, the Chairman may adjourn the meeting to a date as he deems fit and inform the members present and notify other members that the business of the scheduled meeting shall be disposed of at the adjourned meeting irrespective of the quorum and it shall be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending the meeting.

14. **Decision by majority :** All questions considered at a meeting of the Committee

shall be decided by a majority of votes, the Chairman, or in the absence of Chairman, the member presiding at the meeting, as the case may be, shall have a second or casting vote.

15. **Sub-Committees :** The Committee may constitute one or more sub-committees, whether consisting only of members of the Committee or partly of members of the Committee and partly of other persons as it thinks fit, for such purposes, as it may decide and any Sub-Committee so constituted shall discharge such functions as may be delegated to it by the Committee.

16. **Register to be maintained under section 11 of the Act :**

(1) Every occupier of an establishment shall maintain a register in respect of children employed or permitted to work, in Form 'A'.

(2) The register shall be maintained on a yearly basis but shall be retained by the employer for a period of three years after the date of the last entry made therein.

17. **Certificate of age :**

(a) All young persons in employment in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on, shall produce a certificate of age from the appropriate medical authority, whenever required to do so by an Inspector.

(b) The certificate of age referred to in sub-rule (1) shall be issued in Form 'B'.

(c) The charges payable to the medical authority for the issue of such certificate shall be the same prescribed by the State Government or the Central Government, as the case may be, for their respective Medical Boards.

(d) The charges payable to the medical authority shall be borne by the employer of the young person whose age is under question.

Explanation : For the purposes of sub-rule (1) the appropriate "Medical Authority" shall be a Government medical doctor not below the rank of an Assistant Surgeon of a District

or a regular doctor of equivalent rank employed in Employees' State Insurance dispensaries or hospitals.

(Forms appended to the Rules are not included in this book)

Notification under Sec. 1 (3)

New Delhi, the 30th December, 1991

S. O. 27 (E) : In exercise of the powers conferred by sub-section (3) of section 1 of the Child Labour (Prohibition and Regulation) Act, 1986 and in super session of the notification No. S.O. 575 (E) of the Government of India in the Ministry of Labour published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), dated the 3rd August, 1987, as corrected by corrigendum No. S. O. 69 (E), dated the 11th January, 1989, except as respects things done or omitted to be done before such supersession, the Central Government hereby applies the provisions of Part III of the said Act to all those establishments throughout the country, for purposes of regulation of conditions of work of children, where the following processes are carried on, namely -

1. Zari Making and Embroidery
2. Precious Stone Polishing
3. Slate Manufacturing.

New Delhi 26th May 1993

S. O. 333 (E) : In exercise of the powers conferred by sub-section (3) of section 1 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Central Government hereby appoints the 26th day of May, 1993 as the date on which the provisions of Part III of the said Act shall come into force in respect

of all classes of establishments, throughout the territory of India, in which none of the occupations and processes referred to in section 3 of the said Act is carried on.

New Delhi 24th November, 1988

S. O. 1081 (E) : In pursuance of clause (1) of Article 239 of the Constitution, the President hereby directs that the Administrator of every Union Territory (whether known as Administrator, Lieutenant - Governor or Chief Commissioner) shall, subject to the control of the President and until further orders, also exercise the powers and discharge the functions of the State Governments under the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), within Union Territory.

New Delhi, 28th July 1989

S. O. 593 (E) : In exercise of the powers conferred by Section 17 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Central Government hereby appoints the following officers as Inspectors in respect of every establishment under the control of the Central Government or a railway administration or a major port, or a mine or an oil field namely :

1. The Chief Labour Commissioner (Central)
2. All Deputy Chief Labour Commissioners (Central)
3. All Regional Labour Commissioners (Central)
4. All Assistant Labour Commissioners (Central)
5. All Labour Enforcement Officers.



MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 23rd July, 1998

S.O. 619 (E) In exercise of the powers conferred by section 4 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Central Government hereby gives three months' notice of its intention to make the following amendments in the Schedule to the said Act, namely:-

In the Schedule to the said Act :

(a) in Part A, after item (7), the following items shall be inserted, namely:-

(i) "(8) Handling of toxic substances, inflammable or explosives".

(b) in Part B

(i) for item (2), the following item shall be substituted, namely:-

(2) "carpet weaving including preparatory and incidental process thereof".

(ii) for item (4), the following item shall be substituted, namely:-

(4) "cloth printing, dyeing and weaving including preparatory and incidental processes thereto".

(iii) after item (18), the following items shall be inserted, namely:-

19. Plastic units, fibreglass and moulding and processing

20. Automobile workshop and garages, welding units.

21. Sericulture (only in processing section)

22. Lime kilns and manufacture of lime.

23. Mines, stone breaking and stone crushing.

24. Cotton ginning and pressing, production of hosiery goods and handloom industry.

25. Potteries and ceramic industry.

26. Manufacture of cement pipes, cement products and other related work.

27. Gem cutting and polishing.

28. Utensils making and polishing, metal buffing.

29. Processes in agriculture where tractors, threshing and harvesting machine are used.

30. Glass manufacturing, including glass bangles.

31. Manufacturing of bricks and/or roof tiles.

32. Polishing, moulding, cutting, welding and manufacture of brass goods in all forms.

33. Paper making.

34. Manufacture of dyes and dye stuff.

5. Manufacturing/handling of pesticides and insecticides.

36. Manufacturing/processing of corrosive and toxic substances, metal cleaning, photo engraving, soldering processes in electronic industries.

37. Manufacturing process having high noise level.

38. Manufacturing process involving thermal radiation.

39. Oil expelling and refinery.

40. Fabrication workshops (Ferrous and Non-ferrous)

41. Tyre making, repairing, graphite beneficiation.

42. Handling of chromite and manganese ores

43. Foundries.

44. Manufacture of burning coal and coal briquettes.

45. Tobacco processing including manufacturing of tobacco, tobacco paste, handling of tobacco in any form.

46. Zari making (all processes)

47. Leather goods (manufacture and process)

48. Any manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scrapping of lead paint, burning of lead in enameling workshops, lead mining, plumbing, cable making, wire patenting, lead casting type founding in printing shops, store type setting, assembling of cars, shot making, lead glass blowing.

49. Jute textile manufacture.

50. Detergent manufacturing.

51. Agarbatti manufacturing.

52. Sawmill

53. Lock-making

54. Manufacturing of sports goods involving exposure to synthetic materials, chemicals, leather. (F. No. S-27012/3/97-CL)

- Sd/-

CHITRA CHOPRA
Joint Secretary
Government of India



National Policy on Child Labour - 1987

PART I

Introduction

1.1. The Constitution of India, both in the Directive Principles of the State Policy and as a part of the Fundamental Rights, has laid down that the State shall direct its policy towards securing that 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 vocations unsuited to their age or strength, and that children, particularly, are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. Childhood and youth are to be protected against exploitation, and no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

1.2 The National Policy for Children Resolution, adopted in August 1974, further developed the above ideas and set out a policy framework and measures aimed at providing adequate services for children. These were to form a prominent part of the nation's plan for development of human resources. Free and compulsory education for all children upto the age of 14, provisions of health and nutritional programmes and services, providing alternative forms of education for children unable to take full advantage of formal school education for whatever reasons and measures for protecting children against neglect, cruelty and exploitation form part of the National Policy for Children. The Policy also provides, as one of its objectives, that no child under the age of 14 years shall be permitted to be engaged in hazardous occupation or to be made to undertake heavy work.

1.3 The Committee on Child Labour (Gurupadaswamy Committee) which submitted its report in December, 1979, examined the problems of child labour in detail. India is one of the countries where the problems of child labour are quite openly manifest and the widespread existence of child labour has been viewed by the Government of India with concern. The Gurupadaswamy Committee

recognised that a distinction had to be made between child labour and the exploitation of child labour as, though both are a problem, they are of different orders. It had underlined that in all future action dealing with child labour this basic aspect would have to be taken note of i.e., that "labour becomes an absolute evil in the case of the child when he is required to work beyond his physical capacity, when hours of employment interfere with his education, recreation and rest, when his wages are not commensurate with the quantum of work done, and when the occupation he is engaged in endangers his health and safety", i.e., when he is exploited.

1.4 Government has given consideration to these aspects of the problem of child labour, i.e., the need to protect child labour from exploitation or from being subjected to work in hazardous conditions which endanger such children's physical and mental development ; the need to ensure safety and health at their work places ; that they should be protected from excessive long working hours and from night work ; and that there should be regulated work even in non-hazardous occupations, and that all child labour have to be provided with sufficient weekly rest periods and holidays in their employments.

1.5 The Child Labour (Prohibition and Regulation) Act, 1986, is the culmination of the process of consideration that Government has been giving to this pervasive problem figuring in the economic and social landscape in the country. Both in enacting the legislation, and thereafter in proceeding to lay down the policy, and the outline of the policy and the outline of the programme of action, Government have had to keep in mind the economic and social aspects of child labour in country. For example, with substantial portions of Gross Domestic Product (GDP) coming from the agricultural sector, from rural industries or from artisan's workshops, or from small scale services often children work as an essential part of farm household, or as part of the working family assisting parents in ancillary tasks. In such working activities by children in

farm and field, in artisan households or in small family-centered trade or service establishments, children most often acquire the skills which enable them to become full-fledged workers in farming households, family establishments or trades. While work of such kinds has its problems, it is more essential at the present stage of our national development to concentrate in those sectors or establishments where children are developed on wage or quasi-wage employment, outside the family, where there is most likely to arise exploitation, in whatever form it may be.

1.6 The national policies, the national education policy, the national policy on health for all and on nutrition, as also the generally stepped provisions in social services in national plan outlays, are all geared to tackle the problems of poverty, where too often the origins and compulsions of child labour are rooted. The general raising of large number of the population above the poverty line, or the provision of the entire spectrum of improved social services in the areas above mentioned will, it is hoped, lead to progressive elimination of poverty, and consequently of the phenomena of children being put out for wage employment or quasi-wage employment at unsuitable ages. The measures to promote employment-oriented development both in rural and in urban areas, and the all-round development and extension of adequate facilities for both formal and non-formal education, vocational education and training, and in the coverage and extension of social security and family welfare measures would all go a long way to tackle the basic and root causes of child labour.

1.7 This action programme, therefore, has to be viewed against the above background. Specifically, the attempt is to deal with a situation where children work, or are compelled to work, on a regular or a continuous basis to earn a living for themselves and or for their family, and where their conditions of work, on a regular or a continuous basis to earn a living for themselves and or for their family, and where their conditions of work result in their being severely disadvantaged and exploited, and where abuses connected with such factors impacting on wage-employed children need to be given close attention by the State for identification, amelioration and regulation

through specific legal and administrative instruments and measures.

1.8 The future action programme is set out under the following three heads :

- I. The Legislative Action Plan ;
- II. The focusing of general development programmes for benefiting child labour wherever possible ; and
- III Project - based Plan of Action in areas of high concentration of child labour engaged in wage/quasi-wage employment.

PART II

Legislative Action Plan

2.1 A Child Labour Technical Advisory Committee has been set up to advise the Central Government on addition of occupations and process to the Schedule contained in the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as CLA, 86).

2.2 The provisions of the CLA, 86, the Factories Act and the Mines Act will be enforced so as to particularly ensure that children are not employed in factories or mines or in any other hazardous employment, and where they are employed in non-hazardous employments or occupations, to ensure that the work is regulated in accordance with Part III of the CLA, 86, where it is necessary for State Government to make rules under CLA, 86 or under any other legislation so as to protect the interest of child labour, they will be so requested to undertake reviews and frame rules as necessary, The Railway Administration, major Ports and Central and State Government Departments, incharge of oil-fields and mines will also similarly be asked to review the situation arising from the enactment of CLA, 86, so as to ensure that child labour is not employed in other occupations or employments, and if employed in other occupations or employments, that the provisions set out for their health and safety, for the maintenance for registers, and for regulating the period and hours of work or overtime or of weekly holidays and days of rest are enforced in all establishments.

2.3 Government will also bring forward legislation to delete the provision contained in the Minimum Wages Act, allowing different

wages to be fixed for children, adolescents and adults. In other words, children will have to be paid the same as adults. This will remove the economic incentive or employ child labour on lower wages. For enforcing other protective legislation like the Payment of Wages Act, the Equal Remuneration Act, etc., it will be ensured that child labour is not discriminated against as compared to adult labour. The Central and State inspection machinery will be geared up for this purpose.

PART III

Focusing of General Development Programmes for Benefiting Child Labour

3.1 National development programmes exist with very wide coverage in areas of education, health, nutrition, integrated child development and the anti-poverty group of programmes. In order to have an impact on child labour it will be necessary to focus these programmes by the implementing agencies under the State Government or the Central Government so as to deliver benefit to child labour wherever possible, some areas where such focusing could be possible are set out below :

3.2 Education : The National Policy on Education, 1986 (NPE) sets the target of all children who attain the age of 11 years by 1990 having had five years of schooling or its equivalent, through a non-formal system of education. 4,90,000 non-formal education (NFE) centers are proposed to be opened, which will supplement the formal education system. Since the central feature of the implementation of the strategy for non-formal education is based on Micro-level and areas specific and population specific planning. NFE Centres for child labour will be set up with the involvement of voluntary agencies and Panchayati Raj institutions which are capable of running non-formal education centers wherever possible to care of child labour who, after work or during holidays can present themselves at the NFE centers. Special attention will be given to attracting and retaining girls from among working children to NFE centers. Such non-formal education centers for child labour would aim to educate children upto V level, with arrangements for continuance of non-formal education upto Class VIII level wherever possible. Where it is possible to

organise such NEF centers for child labour, all the special features figuring in the Programme of Action of the NPE will be provided.

3.3 For child labour belonging to disadvantaged classes like SC/ST families, details of a scheme of incentive/assistance to indigent SC/ST families who have to put out their children to wage/quasi - wage employment will be worked out in consultation with State Governments. For such children who come from families engaged in occupation like scavenging, flaying and tanning, scholarships will be extended, with constant micro- planning, and verification to ensure that SC/ST Child Labour are enrolled in non-formal education, upto Class VIII. There are as per the specific provisions laid down in the Programme of Action of the NPE.

3.4 Micro-Planning for non-formal education centres will have to be undertaken for child labour, especially for those belonging to such disadvantaged sections of the society as SC/ST, or in areas where there are known to be concentration of such disadvantaged group of families.

3.5 In urban areas also, especially in urban slums, non-formal education programmes by both the State Government and by voluntary agencies will be promoted, including the organisation of extra-curricular activities, diversity in learning activity and with a provision of games and sports and related equipment, plays and skits, excursions, etc.

3.6 The projects of voluntary agencies will be entertained for a period of 3-4 years, whether for urban or for rural areas, and while the initial proposals would be required to be sent to the State Governments, at subsequent stages, the voluntary agencies will directly approach the Department of Education for release of grants-in-aid to such non-formal education centres. The Ministry of Labour may also arrange for micro-level planning for NEF centres for benefiting child labour, and recommend these to the Department of Education.

3.7 NREP/RLEGP funds would be used on a propriety basis for creating the infrastructure for non-formal education centres catering to child labour under the overall co-ordination and direction of the local district level development authorities.

3.8 For continuing education of child labour who have been enrolled and successfully completed their period of non-formal educational institutions with the open schools, or with the formal educational system, so as to enable them to continue their education. The non-formal education programmes would also be linked with the Sharmik Vidyapeeths, schemes of public libraries, Jana Shiksha Nilayams and vocational and technical courses of a wide variety would be provided where required for, among others, working children who came from the non-formal stream.

3.9 Health : Health is a State subject, and the programmes of medical inspection of children has been assigned to the State. The progress among the various States is uneven. A few states have good programmes but many other states do not. In those States where there exists a school health service programme, many and in some States even all, primary school-going children in the rural areas have been covered under the scheme for regular examinations. But those children who do not join school because of being at work would obviously not be covered by such school health programmes (where they exist). The Ministry of Health and Family Welfare will address the State Governments, recommending that areas where child labour is prevalent. The State Government will have to be persuaded to extend the coverage of the school health services programme to child labour. Since this is an area essentially under the State sector, a continuing dialogue, effort and persuasion with the State Governments will have to be maintained so that all children, irrespective of whether they are in primary school, or at work, are covered by regular health inspection and treatment/referral services. It should be possible to arrange for some health screening at NEF centres for child labour.

3.10 Nutrition : Department of Women and Child Development have an on-going programme for women and children, i.e., Integrated Child Development Services which are approved on the basis of proposals by the State Government and non-governmental organisations. While it will not be possible to earmark funds specifically for child labour, proposals from State Governments/non-governmental organisations and voluntary agencies in child labour areas will be funded

on a priority basis and, if necessary, the rules could be relaxed to consider proposals from the organisations to be set up for taking up welfare measures for child labour also.

3.11 Anti-poverty programmes, coverage : IRDP/NREP/RLEGP etc., funds are meant for poverty-alleviation programmes on the basis of criteria which have been laid down for the State to follow. Included in the coverage of the entire gamut of anti-poverty programmes are families which have child labour and, to the extent, that such families with incidence of child labour fall within the selection criteria for endowment of income-generating assets (i.e. IRDP) or for wage employment (NREP / RLEGP) they would be benefited by the ongoing programmes which have a large corpus of funds allocated to them in the 7th Plan. To the extent, therefore, that the poorest families are often forced to put out their children to work for wage/quasi-wage employment, they would be getting assistance to raise themselves above the poverty line and this, in conjunction with the non-formal education centers being opened in rural areas, slum areas, etc. will go a long way towards tackling one of the basic causes of children being put to work, i.e., poverty.

PART IV

Project - Based Plan of Action

4.1 It is known that there are specific sectors of employment where the incidence of child labour is high, such as :

1. The match industry in Sivakasi, Tamilnadu.
2. The diamond polishing industry in Surat, Gujarat.
3. The precious stone polishing industry in Jaipur, Rajasthan.
4. The glass industry in Ferozabad, Uttar Pradesh.
5. The brassware industry in Moradabad, Uttar Pradesh.
6. The handmade carpet industry in Mirzapur- Bhadohi in Uttar Pradesh.
7. The lock-making industry in Alighrah, Uttar Pradesh.
8. The handmade carpet industry in Jammu and Kashmir.

9. The slate industry in Mandsaur in Madhya Pradesh.
10. The slate industry in Markapur in Andhra Pradesh.

4.2 The child workers involved in the above mentioned sectors of employment and geographical areas deserve priority attention because either the employment processes in which they work are prohibited under the Factories Act, or the Child Labour (Prohibition and Regulation) Act or the work is such that it is likely to affect the child's well-being.

4.3 In such of the 10 "project areas", the strategy will be to evolve a package comprising of the following elements :

1. Stepping up the enforcement of the Child Labour (Prohibition and Regulation) Act, the Factories Act and the Mines Act. If necessary, special enforcement staff will be created for the following elements :
2. Coverage of families of child labour under the income/employment generating programmes under the overall aegis of anti-poverty programmes.
3. Where there is a concentration of SC/ST families with child labour, a concentration of special component and tribal sub-plans by the State Government in each project area.
4. Formal/non-formal education of ultimately all child labour engaged in hazardous employment, and of as many child labour as possible as may be in non-hazardous employments. Also, a stepped up programme of adult education (including non-formal education) of the parents of the working children.
5. Co-ordinating the activities of different Departments/Ministries of the Central Government and State Governments to benefit child labour.
6. Setting up of special schools for child workers together with provision of vocational education/training in such special schools, supplementary nutrition, a stipend to the children taken out from prohibited employments, and health care for all children attending such special schools.

4.4 For this purpose, i.e., (6) the infrastructure will have to be created, and wherever the infrastructure run by the Departments of Education, Health, etc., like Shramik Vidyapeeth exists, they will be suitably modified and utilised. Stipend will not be paid to children who are working in non-hazardous/non-forbidden employments. The non-formal education/formal educational institutions in the project area will function on flexible hour basis after working hours, during holidays etc., as may be convenient. They will cover the range of special features of non-formal education set out in the Programme of Action of the NPE.

4.5 In order to enable intensive coverage in the Project areas of the anti-poverty group of programmes run by the State Governments, the special nutrition programme, and for the setting up of special schools. Providing vocational education and training arrangements and for providing stipends to the children taken out from hazardous employments, it will be necessary to provide for additionality of funds over and above the funds that exist in the respective programmes administered under the Plan, whether by the Central Government or by State Governments. The additionality of funds required will be channelled through the Ministry of Labour, which will be nodal Ministry for the ten child labour projects.

4.6 In the first phase of the special project areas approach, it is proposed to cover upto 30,000 child labour. Each project will be carefully drawn up in consultation with the State Governments and Central Ministries concerned to ensure proper coverage and inter-meshing of programmes administered by Central and State Governments under the overall co-ordinating agency of the Ministry of Labour. The Ministry of Labour will be the nodal agency for drawing up a project report in respect of each project area and for providing the additionality of funds that may be required for the total coverage envisaged in each project area.

PART V

Organisation for Implementing the Child Labour Project

There will be a Child Executive Officer-in-charge of each project who will work under the general supervision and the direction of

the administrative head of the district wherein the project is situated. There will be a Child Labour Project Board, with the Collector as its Chairman on which it will be represented the district educational, health, and nutrition authorities, as also representatives of voluntary agencies/Panchayati Raj Institutions who are active in the district in the area of child labour. This will ensure co-ordination of all inputs of the various departments executing plan and non-plan schemes in the project area, so as to enable the focusing for the benefit of child labour/their families, and also to allocate the additionality in project funds made available to each project by the Ministry of Labour.

PART VI

Monitoring of Projects

The working of the child labour projects will be monitored by a high powered Committee of the Central Government with representatives of the Ministries/Departments of Labour, Education, Health, Rural Development, Child and Women Development and the State Governments where child labour projects are being implemented, namely, Tamil Nadu, Uttar Pradesh, Rajasthan, Gujarat, Jammu and Kashmir, Madhya Pradesh and Andhra Pradesh. The Committee will meet as often as necessary to ensure the smooth working of the project.



All India Services (Conduct) Rules Amended upon NHRC's Directions

The All India Services (Conduct) Rules, 1968 have been amended by the Central Government to prohibit the employment of children below the age of 14 years as domestic servants by Government servants employed in the All India Services, namely the Indian Administrative Service, Indian Police Service and the Indian Forest Service. This has been done upon the recommendation and insistence of the National Human Rights Commission.

The Commission had observed that employing children below and up to the age of 14 years for work by anyone was reprehensible, more so by any Government servant. It had thus directed that an appropriate Rule be included in the Conduct Rules of the Government servants by both Central and State, which while prohibiting such employment would also make it a misconduct, inviting a major penalty. The Commission had been pursuing this matter with the Centre and the States since February 1997. The then Chairperson of the Commission had written to the Minister of State for Personnel, Public Grievances and Pension, on this subject for the first time on 10th February 1997. He had

subsequently written to the Chief Ministers of all States on 3rd March 1997.

The Ministry of Personnel, Public Grievances and Pension had, therefore, finally amended the Central Services (Conduct) Rule, 1964 on 4th October 1999. The All India Services (conduct) Rules, 1968 were amended on 1st February 2000. The States of Andhra Pradesh, Assam, Goa, Himachal Pradesh, Jammu and Kashmir, Karnataka, Maharashtra, Madhya Pradesh, Mizoram, Sikkim, Tripura, Tamil Nadu and West Bengal have also amended the Civil Services (Conduct) Rules concerning their employees. The states of Arunachal Pradesh, Bihar, Gujarat, Haryana, Kerala, Meghalaya, Orissa, Punjab and Uttar Pradesh have informed to the Commission that they are still in the process of considering the recommendations of the Commission to Amend the Rules. The States of Manipur, Nagaland and Rajasthan are yet to respond to the Commission's letters written to them in this regard.

The Commission is committed to pursuing this matter to a satisfactory conclusion.



RESOLUTION

No. Z-20014/8/99-Coord - The Government of India have decided to set up a National Commission of Labour consisting of following :

CHAIRPERSON	Shri Ravindra Varma	
FULL TIME MEMBER	Dr. B. R. Sabade	
PART TIME MEMBERS	• Shri Sunil Shastri	
	• Shri Sudarshan Sarin	
	• Dr. Sanjeeva Reddy	President-Indian National Trade Union Congress (INTUC)
	• Shri Jitendra Vir Gupta	
	• Smt. Ela R. Bhatt	Founder Member - Self Employed Women's Association (SEWA)
	• Shri Arvind R. Doshi	
	• Shri Hasubhai Dave	General Secretary - Bharatiya Mazdoor Sangh (BMS)
MEMBER - SECRETARY	Shri N. Sanyal	

1. The terms of reference of the Commission will be as follows :

- (a) to suggest rationalisation of existing laws relating to labour in the organised sector and
- (b) to suggest an 'umbrella' legislation for ensuring a minimum level of protection to the workers in the un-organised sector. While developing the framework for its recommendations, the Commission may take into account following :
 - follow up implications of the recommendations made by the Commission set up in May 1998 for the review of various administrative laws governing industry;
 - the emerging economic environment involving rapid technological changes, requiring response in terms of change in methods, timings and conditions of work in industry, trade and services, globalisation of economy, liberation of trade and industry and emphasis on international competitiveness and the need for bringing the existing laws in tune with the future labour market needs and demands;
 - the minimum level of labour protection and welfare measure and basic institutional framework for insuring the same, in the manner which is conducive to a flexible labour market and adjustments necessary for further technological change and economic growth; and
 - improving the effectiveness of measures relating to social security, occupational health and safety, minimum wages and linkages of wages

with productivity and in particular the safeguards and facilities required for and handicapped persons in employment.

2. The Commission will make its recommendations as soon as practicable but not later than 24 (twenty four) months from the date of the resolution in the Gazette of India. It may, if it deems fit, submit interim reports for any specific problem(s).
3. The Commission will devise its own procedure. It may call such information and take such evidence as it may consider necessary. The Ministries/Departments of the Government of India will furnish such information documents and render such assistance as may be required by the Commission.
4. The Government of India trust that the State Government/Administrations of Union Territories, Public Sector Undertakings, Organisations of Employers and Workers and all other concerned Organisations will extend the Commission their fullest co-operation and assistance Dr. L. Mishra, Secretary to the Government of India Z - 20014/8/99 - Coord New Delhi, dated the 15th October 1999.

Order

Ordered that the resolution be published in the Gazette of India Part I, Section I.

Ordered also that a copy of the resolution be communicated to all Ministers/Department of the Government of India, State Government/Administrations of Union Territories and all the concerned.

Secretary to the Government



Child Labour - Legal Issues

The Supreme Court Judgement on Child Labour and the New Challenges

Mathews Philip

The order of the Supreme Court of India on December 10th 1996, on the writ petition No. 465 of 1986, M.C.Mehta Vs. State of Tamil Nadu and others, banning child labour, is a historic landmark in the ongoing struggles for promoting and protecting child rights in our country. The judgement is significant, not because of banning child labour, but more because of the mandatory recommendations it has brought in, throwing new challenges before all concerned, demanding time bound actions. Although child labour has been prohibited by the Constitution followed by various other legislations, all that remained toothless so far, due to several loopholes and drawbacks and also because of the absence of political will on the part of the Government and its administrative machinery.

Already existing Laws :

A brief journey through the existing laws on child labour may be a useful background for the subject matter of this paper, as the judgement also is sourced on the same.

If we read Article 24, along with Article 39(e), (f) Article 41, Article 45 and Article 47, of our Constitution, there is no way that child labour can be practised in this country.

Article 24: No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 39 (e) : That the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.

Article 39 (f) : 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.

Article 41 : Right to work, to education and to public assistance in certain cases. 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 and undeserved want.

Article 45 : The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Article 47 : The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health.

Keeping the above constitutional provisions in mind, fifteen of Acts have come in to being over a period of time, to prohibit and regulate child labour in various sectors of industries and occupations.

1. Children (Pledging of Labour) Act, 1933.
2. Bonded Labour System (Abolition) Act, 1976, Section 4.
3. The Factories Act, 1943, Section 23.
4. Employees State Insurance Act, 1948. Section 52.
5. Minimum Wages Act, 1948, Section 3.
6. The Apprentices Act, 1961, Section 3.
7. Beedi and Cigar Workers (Conditions of Employment) Act, 1966, Section 23 and Section 25.
8. The Factories Act, 1948, Section 67; Section 27; Section 34(2); Section 68; Section 71.
9. The Mines Act, 1952, Sections 40 and 43
10. The Motor Transport Workers Act, 1961
11. The Plantation Labour Act, 1951, Section 14, Section 25.

12. The Merchant Shipping Act, 1958, Section 111.
13. The Shops and Establishment Act, in various states.
14. The Atomic Energy Act, 1962, Rule 5.
15. The Child Labour (Prohibition and Regulation) Act, 1986.

One wonders whether any other country in the world has enacted so many laws as India, either prohibiting or regulating the employment of children. The Children (Pledging of Labour) Act, 1933 being the oldest and the CLPA of 1986, the latest. The CLPRA, came as a comprehensive piece of legislation to cover all aspects of child labour, sort of single window facility, happens to be the most ineffective one, about which we will discuss a little in the later part of this paper. The fact remains that no one bothered about acting upon these laws with a sense of commitment which perhaps caused the present judgement, to wake up all concerned.

The International Standards

It is also to be noted that the honourable Court based its order on various International Standards for which India is a signatory. The most important among these is the Convention on the Rights of the Child (CRC) which was passed by the UN General Assembly on 20th November, 1989. The convention affirms the rights of children which require special protection - not only the civil and political rights of children but also the economic, social, cultural and humanitarian rights.

The International Labour Organisation (ILO) is the other body, which campaigned consistently for the elimination of child labour through its instruments and resolutions. It is worth going through the following extract from ILO's resolution of 1971 on the International Year of the child and the progressive elimination of child labour and transitional measures :

"Pending the elimination of child labour, to take all necessary social and legislative action for the progressive elimination of child labour and during the transition period until the elimination of child labour, to regulate and humanize it and to give particular attention to the implementation of special standards for children relating to medical examination, night

work, underground work, working hours, weekly rest, paid annual leaves and certain types of hazardous and dangerous work, embodied in a number of ILO instruments".

There are many other documents and recommendations by organisations like UNICEF, Government's own policy papers on child, education, etc., reports of organisations like Amnesty International, Human Rights Watch etc., despite which, child labour in India has grown over 400 % or more during the last two decades. This paper doesn't intend to discuss the causes and the analysis, since that is separately dealt in other sections.

The Judgement - A Critique :

Before entering into the exploration of possible action plans, it is useful to bear in mind certain weakness of the judgement. These weaknesses call for legislative amendments to the law which will also form part of the future action plan on a different level.

- (1) Elimination of child labour logically, cannot be achieved without implementing Universal and Compulsory, formal school Education, which is a directive principle (Article 45) incorporated in the Constitution. Though education is mentioned in the judgement, no definitive directive on compulsory education is made except that it would be the duty of the inspector to see that the call of the Constitution is carried out.
- (2) There seems to be too much emphasis on poverty as a causative factor of child labour. Those who work on the issue for so many years might take a position that poverty is only one among the various causes perhaps an important factor for the perpetuation of child labour.
- (3) The judgement is largely dependent on the Child Labour Prohibition and Regulation Act of 1986, which has been already proved to be not very effective. To realise many things envisaged in the judgement, it is essential to amend the aforesaid act so that the Act is made functional. Unfortunately no directive is made in the judgement towards, the same.
- (4) Due to the above mentioned weakness, we are forced to continue to deal with the unacceptable definitions of 'hazardous and

non-hazardous' in the Act which is 'industry based' whereas it should have been 'child based'. Any child below 18 years, forced to work in any industry or occupation should be considered as 'hazardous' for the overall development of the child. The regulation should be brought in only for those who are between the age group of 14 and 18 years.

Amendments required for the CLPRA, 1986:

From the judgements 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 organised 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 Child Labour 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 have 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. With regard to enforcement the following amendments were suggested :
 - i. Joint Task Force at District level consisting of Eminent Citizens, Social Workers and Concerned officials of the Labour Department to monitor the effective enforcement of the Act.
 - ii. The role of Panchayats/municipalities in enforcement of Child Labour to be clearly defined.
 - iii. Flying Squads made up of Factory Inspector, officials of other departments and members of the public with powers to collect spot fines and impose punishments.
 - iv. A report by NGO's and Trade Union to the Labour Inspector on the specific prevalence of Child Labour - should be legally binding on the factory inspector to initiate the prosecution proceedings.
 - v. Other dimensions of enforcement like seizure of plants and machinery, cancellation of license etc. should be incorporated into the Act.
 - vi. Trade Unions and NGO's to be empowered to carryout inspections and call for records.
 - vii. Once a conviction is given for Employment of Children below 18 years it should be made mandatory for the occupier within a limited time period to prove that he is not employing any child labour.
9. The definition of occupier should mean the actual owner/Director who should be made liable. Similarly, definitions such as child labour, child work, young persons, establishment, workshop, industrial process etc. have to be incorporated or redefined.

However, the weaknesses pointed out in the judgement do not in any way undermine the positive elements. Drawbacks are pointed out only because of the need for further measures to make enforcement effective.

It is to be noted that there is a feeling already among a few activists to ignore the judgement by saying it is another 'activist' judgement, so what? "This is due to the drawbacks pointed out earlier and also because of the accumulated frustrations. What's required is to explore the positive and practical recommendations of the order and put pressure on all concerned to implement the same. The campaign against child labour can use the positive elements to further strengthen its efforts.

Orders to be implemented immediately :

The most significant aspect of this judgement is the creation of a corpus fund at the district level, by a compensation package of Rs. 25,000/- per child. This is the first time the Government is penalised financially Rs. 5,000 to be contributed to the corpus fund per child.

1. The Inspector appointed under section 17 of the CLPRA would see that each child employed in violation of the provisions of the act, the concerned employer pays Rs. 20,000/- which sum shall be deposited in a fund to be known as Child Labour Rehabilitation cum Welfare Fund. (from para 28 of the judgement).
2. It is the responsibility of the Government to provide employment to adults, as per the Article 41 of the constitution, on the right to work, read with Articles 39(e) and (f) and 47. "In those cases where it would not be possible to provide job as above-mentioned, the appropriate Government would, as its contribution/grant, deposit in the aforesaid Fund, a sum of Rs. 5,000/- for each child employed in a factory or mine or in any other hazardous employment (Para 27).
3. In case of getting, for an adult the parent/guardian shall have to withdraw his child from job. Even if no employment would be provided, the parent shall have to see that the child is spared from the job as an alternative source of income would have become available to him. (May be the

assistance from the Welfare Fund) - (Para 30)

4. To give shape to the above directives the state administration required to do the following:
 - a. A survey on hazardous child labour shall be completed within six months, i.e., by June 11th, 1997.
 - b. The most hazardous employment, shall be the first in priority, followed by the less hazardous one.
 - c. However there is a recommendation to declare more industries as hazardous, as identified in the National Child Labour Policy Document.
 - d. The undertaking chosen for shall be one which is nearest to the place of residence of the family.
 - e. When the guardian is given employment, the payment from the Welfare Fund will cease and same should be the case if the child is not sent for education.
 - f. A district would be the unit of collection of payments for the Welfare Fund and operations of the same. The Executive head of the district shall keep a watchfull eye on the work of labour inspectors.
 - g. A separate cell for child labour, in Departments of the appropriate Governments would be created for monitoring of the scheme. The Secretary to the Labour Department shall be in-charge of the cell. The ministry of Labour at the centre will do the overall monitoring.
 - h. The Secretary to the Ministry of Labour would report to the Court within one year about compliance of the aforesaid directions.
 - i. In the case of the non-hazardous jobs are concerned, the working hours of the child shall be limited between 4 to 6 hours a day and it receives education at least for 2 hours in a day. The entire cost of the education is borne by the employer.

The court is of the opinion that the above mentioned task is big, but not as to prove either unwieldy or burdensome. Let us go on to discuss the major and important challenges before us. The first one is to properly amend the 1986 law to suit the implementation of the order which is already dealt with in this paper.

Survey on Child Labour

The first step for applying the judgement, is to conduct a survey on child labour, within 6 months. Though there are many survey reports available, it is also a fact that many reports are contradicting each other. The voluntary organisations do not agree with the projections of the government surveys and vice versa. More over no survey report exists which covers all the sectors and all the areas. So, one has to welcome this move, expecting that a realistic picture will emerge through the survey and the implementation of the other directives in the judgement will be made possible and effective.

The Government through its Department of Labour is already gearing up for the survey. From the statements of Minister, etc., it is noted that the Labour Officers are being asked to do the study. Learning from past experience, it is certain that the report of the survey conducted by the Labour officials will not be reliable. There will be several factors compelling them to hide the reality. At the same time the Government may not be willing to entrust the survey with NGO's. The only way out is to commission autonomous and independent research and educational institutions to do the survey. Another advantage in assigning these institutions, is the completion of the survey within the stipulated time, as the bureaucracy is known for delaying things. The challenge is to convince, the Government in favour of Universities, organisations like NCC, NSS etc.

The other task is to include more industries in the list for survey. Though the judgement makes it mandatory only for hazardous industries, it also provides for additions as per the National Child Labour Policy. NGO's will have to identify more sectors on a priority basis and convince the authorities to include the same for survey.

III. Strengthening of qualitative primary education facilities :

Though no clear directives are given in the judgement it mentions the place of primary education in the efforts for eradication of child labour. It is a myth that child labour can be abolished without increasing facilities for education. Even after the Welfare Fund comes into operation, the child will continue to work, if he/she is not in a position to attend school. There is no need for elaborating the problems of education system in our country, especially in rural areas. This calls for a very, close togetherness of working between the Departments of Labour and Education. Interdepartmental co-operation is another difficult area, causing several challenges before us.

It is unfortunate to notice that the Mass Literacy Campaign failed to address the links between literacy and child labour. One cannot even dream of a cent percent literate society without abolition of child labour.

The major drawback is the disparities that exist in the field of education - geographical as well as sociological. Rural India is completely neglected while enormous amounts of funds are spent in urban areas and also for higher education. It should be examined whether a part of the funds from the aforesaid corpus fund shall be earmarked for creating a better and more facilities for schooling atleast in the child labour concentrated areas.

III. The Role of Panchayathi Raj :

The judgement is clear in its approach of a decentralised machinery at the implementation level and the 'District' is recommended as the unit and the Executive Head of the District is made the authority. This calls for exploring the possibilities available with the Panchayathi Raj System in dealing with the practice of Child Labour. The 73rd and 74th Amendments of the Constitution has brought in a new life, to the Panchayathi Raj, which created a euphoria among all those who stand for decentralisation of power and grassroot level-participation in development programmes. These amendments brought in more opportunities; for women and other marginalised sections such as Dalits. As a result of the amendments the 11th and 12th schedules became part of the Constitution, through which poverty alleviation, education including primary and secondary schools; technical training and vocational education; adult and non-formal education; family welfare;

women and child development etc., are made within the authority of Panchayathi Raj.

All the aforesaid issues have a direct link with matters concerning eradication of child labour. Though abolition of child labour is not mentioned in exact terms in the schedules, the proper orientation and sensitisation to the panchayat officials and elected members can bring in this angle in their programme and projects for poverty alleviation, education, family welfare and the overall development of the child. Section 182 of Chapter XI, of the 73rd amendments says: 'education and social education' an important function of Zilla Parishads.

The Karnataka Zilla Parishad, Taluk Panchayats Samitis, Mandal Panchayats and Nyaya Panchayat Act, 1983, in its chapter IV, Section 63(2) provides for forming 'Social Justice Committee in the Mandal Panchayats. In Chapter VIII Section 177, Social Justice and Education Committees - 2 standing committees are established in the Zilla Parishath. These committees at the Mandal and Zilla Parishath levels could be the model points for tackling child labour with the support of the District Head and the labour department at the district level.

What's required is to make these committees consider child labour as an important and immediate issue for them and that orientation has to go from the efforts of local NGOs and the activists.

The Karnataka Act also provides for powers of Civil and Criminal jurisdiction within Panchayat Raj system. Sections. 239 reads as follows: "The Nyaya Panchayath shall try civil and criminal cases of the nature specified in this chapter". It could be explored in the long run how the Nyaya Panchayath could intervene effectively on the violation of child rights which are certainly of criminal nature.

Concluding Remarks :

Though this paper is mainly deliberating upon the legal strategies, originating from the

Supreme Court, Judgement, the writer doesn't hold the view that law alone is the answer for dealing with the issues of child labour. Perhaps different strategies shall be applied to address the different causative factors, all converging into a concerted action. Everyone considers 'child as a citizen for tomorrow' and treated his/her problems casually and without a sense of urgency. 'Child is a citizen of today' and the rights of the child shall be realised today itself.

(Paper presented in the Seminar on Child Labour at Roshini Nilaya, School of Social Work, Mangalore on 07.02.1997)

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The author is currently hosting CACL-Karnataka's advocacy unit and is Director SI CHREM.



The Worst Forms of Child Labour

Country-wise Data

By

The Global March Against Child Labour

Worst Forms of Child Labour Data

	Region	Asia and the Pacific
INDIA	Population	982,223,000.00
	Pop. under 18	395,791,000.00

Total Child Labour

NATIONAL STATISTICS

- For the year 2000, the ILO projects that there will be 13,157,000 economically active children, 5,992,000 girls and 7,165,000 boys between the ages of 10-14, representing 12.07% of this age group. (ILO STATE, Working Papers, 1997)
- There are an estimated 111 million child labourers. (CACL, "An Alternative Report on the Status of Child Labour in India", submission to the UN CRC, September - October 1999, citing The Balal Data Bank, Manila, based on the premise that if half of India's over 800 million population lives in poverty, the number of working children in India is likely to be over 100 million); Unofficial child labour estimates are as high as 111 million, which is slightly equivalent to the number of 'out of school' children. (US Dept of Labour, Sweat and Toil of Children Efforts to Eliminate Child Labour, 1998)
- Interpolation of census figures by the National Labour Institute indicates that out of 203 million children between the ages of 5 and 14, 116 million are in school, 12.6 million are in full-time employment and the status of 74 million is unknown. Most, if not all, of the 87 million children not in school do housework, work on family farms, work alongside their parents as paid agricultural labourers, work as domestic servants or are otherwise employed. (US Dept of State, Human Rights Report, 1999)
- As many as 100 million boys and girls are believed to be working in homes and factories across India, many under conditions akin to slavery. ("Child Labour Ruling Provokes Scorn", ECPAT Bulletin, Vol. 4/1, 1996/97)

- A survey of child labour throughout the country ordered by the Supreme Court was completed during 1997 and it documented the existence of some 126,665 wage-earning child labourers. When this figure was challenged as patently low, the states conducted a second survey, in which an additional 428,305 child labourers in hazardous industries were found. However, even the combined total of the two surveys understates the true dimension of the problem. (US Dept of State, Human Rights Report, 1999)
- Françoise Remington, founder of Forgotten Children, estimates India has 55 million child workers in the age group of 6-14 years. (Mary E. Williams, Child Labour And Sweat Shops, 1999, citing testimony before the US Sub-Committee on International Operations and Human Rights, 15 July 1996)
- There are around 77 million child labourers in the country. (CACL, "An Alternative Report on the Status of Child Labour in India", submission to the UN CRC, September-October 1999, citing Commission on Labour Standards and International Trade, Government of India, 1995 based on the families living below the poverty line)
- Of the 210 million children between the ages of 5-14 years, 11,285,000 are child workers (5.4%) according to the 1991 National Census. (US Dept. of Labour, Sweat and Toil of Children. Efforts to Eliminate Child Labour, 1998)

Child Slavery

National Statistics

- There are no universally accepted figures for the number of bonded child labourers. However, in the carpet industry alone, human rights organisations estimate that there may be as many as 300,000 children working, many of them under conditions that amount to bonded labour. (US Dept. of State, Human Rights Report, 1999)

- Some NGOs estimate that the number of bonded labourers is 5 million persons. However, in a report released during the year, Human Rights Watch estimated that 40 million persons, including 15 million children, are bonded labourers. The report notes that the majority of bonded labourers are Dalits and that bondage is passed from one generation to the next. (US Dept. of State, Human Rights Report, 1999)
- There are 5 million adult bonded labourers and 10 million child bonded labourers. (ILO-IPEC, Mainstreaming Gender in IPEC Activities, 1999)

DOMESTIC SERVANTS NATIONAL STATISTICS

- A survey in India, noted that 17% of domestic workers were under 15 years old and also preferred choice of 90% of employing households. (UNICEF, state of the World's Children, 1977).
- Of the 11,280 children below the age of 14 years involved in domestic chores for a wage in 19 towns of Tamil Nadu, around

3,000 children were employed in the homes of government servants. (Ramya Kannan, "India: Study shows lack of follow-up action". The Hindu, 20 September, 2000, citing The 'preliminary assessment' of the prevalence of domestic child labour, by Peace Trust and 15 other NGOs)

- In Chennai, a study found that 25% of child domestic workers interviewed began working before they were nine and a further 65% began work between the ages of nine and 12 years old. More than 80% were girls. (Anti-Slavery International and Arunodhaya, "Out of Sight, Out of Mind, Out of Reach: A study of child domestic workers in Chennai, India", 1999)
- **Begging** - 76 children, mainly girls and some physically handicapped returned from Jeddah. They were sent to beg during the Haj. Within a month of the return of this group 47 boys were trafficked for begging. ("Children Sent to the Middle East to Beg". Child Workers in Asia. April-September 1997)



Rules For Child Labour Act

GUJARAT

Rules and orders (other than those published in parts 1, 1-A and I-L) made by the Government of Gujarat under the Central Act.

LABOUR AND EMPLOYMENT DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 9th November 1994

CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (61 of 1986).

No. GHR-94-262-ECA-1088-/I-336-M-3:
WHEREAS draft notification No. GHR - 94 - 108-ECA-1088-I-336-M (3) dated 29th June, 1994 was published at pages 64 to 64-4 in the Gujarat Government Gazette Extra-ordinary part IV-A dated the 29th July, 1994 inviting objections and suggestions within a period of thirty days from 29th July, 1994 from all persons likely to be affected thereby:

AND WHEREAS no objection and suggestion has been received by the Government during the period specified in the aforesaid notification on the said draft :

NOW, THEREFORE, in the exercise of the powers conferred by section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) the Government of Gujarat hereby makes the following rules, namely :-

1. **Short title :** These may be called the Child Labour (Prohibition and Regulation) (Gujarat) Rules, 1994.
2. **Definitions :** In these rules, unless the context otherwise requires -
 - (a) "Act" means the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986).
 - (b) "Form" means a form appended to these rules.
 - (c) "Schedule" means the schedule appended to the Act.
3. (1) No child shall be required or be permitted to work in any establishment

for more than five hours on any working day.

- (2) In every establishment in which children are employed in accordance with the provisions of section 7, there shall be displayed in Form I and properly maintained a notice of work for children, showing clearly for every day, the periods during which child workers may be required to work.

3. **Register :**

- (1) Every occupier of an establishment shall maintain a register in Form II in respect of children employed or permitted to work.
- (2) The register shall be maintained on a yearly basis but shall be retained by the employer for a period of three years after the date of the last entry made therein.

4. **Certificate age :**

- (1) Every occupier engaging a child in any of the occupations other than those specified in Part A of the Schedule of the said Act or in any workshop wherein any of the process other than those specified in part B of the Schedule of the said Act is carried on produce a certificate of age from the appropriate medical authority, whenever required to do so an inspector.
- (2) The certificate of age referred to in sub-rule (1) shall be issued in Form III.

(3) The charges payable to the medical authority for the issue of such certificate shall be the same as are prescribed by the State Government or the Medical Boards for similar purpose.

(4) The charges payable to the medical authority shall be borne by the occupier in respect of the child whose age is under question.

Explanation : For the purposes of sub-rule (1), the "appropriate Medical Authority" shall be Govt. Medical Officer not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in primary Health Centres or in Employees' State Insurance dispensaries or hospitals.

5. **Power to exempt :** The State Government may exempt, by an order specifying therein such conditions and for such period as it may consider fit, any establishment from all or any of the provisions of these rules.

FORM NO. I

See Rule 3(2)

Notice of period of work for child workers

Name of Establishment _____ District _____

Period Work	Children	Nature of work	Remarks
	Total number of children employed.		

From _____

To _____

From _____

To _____

Date on which this notice is first exhibited _____ year.

(Signature) _____

Manager.



V. R. RANA
Deputy Secretary to Government

By order and in the name of the Governor of Gujarat

Date _____
Place _____
Child _____
marks are _____
Thumb impression/signature of _____
from my examination is _____ year (completed). His/her descriptive
and that he/she completed his/her fourteenth year and his/her age, is hereby as can be ascertained,
daughter of _____ residing at _____
I hereby certify that I have personally examined (name) _____ son/

Certificate No. _____

FORM NO. II
(Certificate of Age)
See rule 5(2)

Sl No	Name	Fathers/	Date	(i) His	Date	Nature	Daily	Period	Intervals	Wages	Remarks
1	Child	the name	birth	Permanent	his	of work	hours	of	of rest to	paid	
2	Child	of the	address	of	Permanent	of work	of	of	of rest to	paid	
3	Child	of the	address	(ii) Present	his	of work	of	of	of rest to	paid	
4	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
5	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
6	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
7	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
8	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
9	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
10	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
11	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	
12	Child	of the	address	of the	Permanent	of work	of	of	of rest to	paid	

Year _____
Name and address of employer _____
Nature of work being done by the establishment _____
Place of Work _____

FORM NO. II
See rule 4(1)

Rules and orders (other than those published in parts I, I-A and I-L)
made by the Government of Gujarat under the Central Acts.

LABOUR AND EMPLOYMENT DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 29th June, 1994

Child Labour (Prohibition and Regulation) Act,
1986 (61 of 1986)

A. No. GHR-94-107-ECA-1088-/-336-M(3) :
In exercise of the powers conferred by section
13 of the Child Labour (Prohibition and
Regulation) Act, 1986 (61 of 1986), the
Government of Gujarat hereby makes the
following rules, namely :

1. Short title and commencement :

- (i) These rules may be called the Child Labour Health and Safety (Gujarat) Rules, 1994.
- (ii) They shall come into force on and from the date of their publication in the Official Gazette.

2. Definitions : In these rules, unless the context otherwise requires -

- (a) "Act" means the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986).
- (b) "Form" means a form appended to these rules.
- (c) "Schedule" means the schedule appended to the Act.

3. Every occupier of an establishment shall comply with the following viz.,

(A) Health and safety :

- (1) Every establishment shall be kept clean and free from effluvia from any drain, privy or other nuisance, and in particular -
 - (a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and passages of workrooms and from staircases and passages, and disposed of in a proper manner :
 - (b) the floors of every workroom shall be cleaned at least once in every week by washing with disinfectant, where necessary, or by some other effective method.

(c) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall -

- (i) Where they are painted or varnished or where they have smooth impervious surfaces, be cleaned with fresh water and dried at least once in every twelve - months.
- (ii) Where they are painted or varnished be repainted or revarnished at least once in every period of five years ; and
- (iii) in any other case, be kept white - washed or colour - washed at least in every twelve months.

(2) The record of the dates on which white washing colour washing, painting and cleaning as the case may be, was carried out under sub-rule (i) shall be entered by the occupier in a register maintained in Form No. I.

(B) Ventilation : In every workroom or establishment windows and other forms of openings for ventilation shall be provided in sufficient number to admit a contained supply of fresh air so as to keep the atmosphere inside such workroom or establishment comfortable and free from dust, fumes and other impurities.

(C) Overcrowding :

No room in any establishment shall be over-crowded to an extent injurious to the health of the children employed therein.

(D) Lighting :

- (1) In every part of an establishment where children are working or passing, there shall be provided and maintained sufficient and suitable lighting-natural, artificial or both.
- (2) In every establishment, all glazed windows and sky - lights used for the lighting of the workroom shall be kept

(3) Every latrine shall be under a cover and shall be so partitioned to secure privacy and each partition shall have a private door and fastenings.

(2) Where female children are employed in any establishment. A separate accommodation shall be provided for them in accordance with the same scale as the scale for male children specified in sub-rule (1).

Explanation : In calculating the number of latrines required in accordance with the above provision, any odd number of children less than twenty five or fifty shall be reckoned as twenty five or fifty as the case may be.

Provided that where the number of such male children exceeds hundred, it shall be some of there is one latrine for every 25 male children upto the first hundred and one for every 50 children thereafter.

(1) In every establishment, latrine at the rate of one latrine for every 25 male children shall be provided and shall be so conveniently situated as may be accessible to the children at all times while they are in the establishment :

(2) All such points shall be legibly marked "drinking water" in a language understood by the majority of the children employed in the establishment and no such point shall be situated within six meters of any place, urinal or latrine.

(1) The occupier shall make in each establishment, effective arrangement to provide and maintain at suitable points conveniently situated for all children employed therein, a sufficient supply of wholesome drinking water.

(ii) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any child.

(i) Glare, either directly from a source of light or by reflection from a smooth or polished surface;

(3) In every establishment, effective provisions shall, so far as is practicable, be made for the preventions of -

(1) The walls, ceilings and partitions of every latrine shall be white-washed or colour washed and the same shall be repeated at least once in every period of four months.

(H) Latrines and Urinals to be connected to sewage system wherever possible :-
When any general system of underground sewage with an assured water supply is provided for or exists in any particular locality, all latrines and urinals in an establishment in such locality shall be connected with such sewage if the establishment is situated within 30.5 metres of that sewage system.

(2) Where female children are employed in an establishment, a separate urinal accommodation shall be provided for them in accordance with the same scale as the scale for male children specified in sub-rule (1).

Explanation : In calculating the urinal accommodation required under this rule, any odd number of employees less than fifty or hundred, as the case may be, shall be reckoned as fifty or hundred.

Provided that where the number of employees employed in the establishment exceeds five hundred, it shall be sufficient if there is one urinal for every fifty employees upto the first five hundred employees and one for every hundred in excess thereof.

(1) Urinal accommodation shall be provided in every establishment (other than the establishment where less than fifty persons are employed or where the latrines are connected to a water-brone sewage system) and such accommodation shall not be less than six meters in length for every fifty employees :

(G) Urinals :

(4) Where children of both the sexes are employed in any establishment, there shall be displayed outside each latrine-block there on, a notice in three language understood by the majority of the children reading 'for male only' or as the case may be 'for female only' and such notice shall also bear the picture of a male of a female as the case may be.



(2) Nothing in sub-rule (1) shall apply in respect of walls and ceilings of and partitions, in latrine of urinal or any portions of such walls, ceilings and partitions which are laid in glazed tiles or otherwise finished to prove a smooth polished surface, but such walls, ceilings, partitions, portions thereof shall be washed with suitable detergents and disinfectants at least once in every period of four months.

(3) The dates on which the white - washing or colour - washing is carried out under sub - rule (1) or, as the case may be washing with detergents and disinfectants is carried out under sub-rule (2) shall be entered by the employer in the register maintained in Form I.

(J) Construction and maintenance of drains: All drains work in an establishment for carrying waste or sullage water shall be constructed in masonry or other imperemable materials shall be regularly flushed and affluent disposed of by connecting such drains with suitable drainage lines.

Provided that where there is no such drainage line, the affluent shall be deodorised in order to render it rinocuous and then disposed of.

(K) Water taps in latrines : A sufficient number of water taps conveniently accessible shall be provided in or near latrines. There shall be at least one tap for every number if ten latrines or part thereof.

(L) Washing facilities :

(1) There shall be provided and maintained in every establishment for the use of children engaged adequate and suitable facilities for washing which shall include soap and nail - brushes or other suitable means of cleaning. Such facilities shall be conveniently accessible and shall be made available in clean and orderly condition and shall not be located in the vicinity of latrines or urinals.

(2) If female children are employed in any establishment, separate washing facilities on the same lines as those specified in sub - rule (1) in respect of male children in enclosed or screened

places in such manner that the interior portions of such place are not visible from any place where male children work or pass through and the entrance to every such place shall bear a notice in the language understood by the majority of the children reading "For female child only" in bold and conspicuous letter and such notice shall also bear the picture of a female child.

(3) Water supply for purposes of washing facilities under sub - rule (1) or sub-rule (2) shall be, wherever possible, such as to provide at least 27.3 litres per day for each employee employed in the establishment and any case not less than 4.5 litres per day for each employee. Such water shall be drawn from a hygienic source.

(M) Safety : In every establishment, every part of transmission machinery and every dangerous part of machine shall be securely fenced by safety guards construction, which shall be constantly maintained and kept in position while the parts of machinery are in motion or in use.

Explanation :

(1) For the purpose of this rule .."Transmission machinery" means any shaft wheel, drum pulley, system of pulleys, coupling - clutch, driving - belt or other appliance or device by which the motion of a prime - mover is transmitted to or received by any machinery or appliance :

(2) "Machinery" includes prime-movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied ;

(3) "Prime - mover" means any engine, motor or other appliance which generates or other source which provides power.

(N) Dust and Fume :

1. Where dust, fume, gas or vapour is produced in process, provision shall be made for removing them by means of an efficient exhaust system. No drought shall be deemed to be efficient which fails to remove gas, smoke or dust generated at the point where, such gas, dust or smoke is originated.

2. Effective screen or suitable goggles shall be provided for the protection of eyes of the child where such process is going on in which dust or smoke or fume or gas or vapour is produced.

(O) Work at or near machinery in motion:

No child shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the child to risk of injury from any moving part either of that machine or of any adjacent machinery.

- (P) Employment of children on dangerous machine :** No child shall be employed or permitted to work on any dangerous machine.

- (Q) Self-acting machines :** No traversing part of a self-acting machine in any work room or establishment and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not a part of the machine.

- (R) Casing of new machinery :** In all machinery driven by power and installed in any establishment after the commencement of these rules -

- (a) Every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;
- (b) all spur, worm and other toothed or friction-bearing which does not require frequent adjustment while in motion, shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

- (S) Floor, stairs and means of access :** In every workroom or establishment

- (a) All floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure

safety at all steps, stairs, passages and gangways shall be provided with substantial handrails;

- (b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person if at any time required to work.

(T) Pits, sumps, openings in floors etc. :

In every workroom or establishment every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reasons of its depth, situation, construction or contents is or may be a source of danger shall be either securely covered or securely fenced.

- (U) Excessive Weights :** No child shall unaided by another person, lift, carry or move by hand or on head, any material, article, tool or appliance exceeding the following weight limits ;

Male child	15.9 kg.
Female child	13.6 kg.

(V) Precautions in case of fire :

1. Every workroom or establishment shall be provided with safe and proper way of escape in the event of a fire and if it appears to the Inspector that any establishment has not so provided he may serve on the Manager of the establishment an order in writing specifying the measures which, in his opinion, should be adopted to bring the workroom or establishment into conformity with the provisions of this rule requiring them to be carried out before a date specified in the order.
2. In every workroom or establishment the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from inside while any person is within the room and all such doors, unless they are of the sliding type, shall be constructed to open outwards.
3. In every workroom or establishment, every window, door or other exit affording a means of escape in case of fire, other than the means of exits in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letter or adequate size or by some other effective and clearly understood sign.

4. There shall be provided in every workroom or establishment effective and clearly audible means of giving warning in case of fire to every person employed in the workroom or establishment.
5. A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every workroom or establishment.
6. Effective measures shall be taken to ensure that in every workroom establishment:
 - a. Wherein more than ten workers are ordinarily employed in anyplace above that ground-floor, or
 - b. Wherein explosives or highly inflammable materials are used or stored, all the workers are, familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(W) Safety of Buildings and machinery :

1. If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a workroom or establishment is in such a

condition that it is dangerous to human life or safety. He may serve on the Manager of the workroom or establishment an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

2. If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a workroom or establishment in valves imminent danger to human life or safety, he may serve on the Manager of the workroom or establishment an order in writing prohibiting its use until it has been properly repaired or altered.
3. Every occupier should send an annual return to the Commissioner of labour as presented in Form II on or before the last day of February every year.
4. *Power to exempt* : The State Government may exempt, by an order specifying therein such conditions and for such period as it may consider fit, any establishment, form all or any of the provisions of these rules.

FORM NO. I

See Rule 3(A) (2)

Record of Lime-washing, painting etc.

Names of Part/Section/ Dept. of Establishment	Treatment whether lime-washed painted, varnished cleaned or colour-washed.	Date, month and year	Remarks
1	2	3	4

FORM II

(See Rule 4)

ANNUAL RETURN

1. Name and address of establishment :
2. No. of Registration under Factories Act, 1948
Shops and Establishment Act, 1948 :
3. No. of total persons employed during the year :
4. No. of children employed during the year :
5. Rates of wages given to the child :
6. No. of working hours for the child :
7. Other facilities given to the child :
8. Any other information :

Signature of Occupier

By order and in the name of the Government of Gujarat

V. R. RANA

Deputy Secretary to Government

GOVERNMENT OF KARNATAKA

No. DPAR 3 SRC 97

Karnataka Government Secretariat
Vidhana Soudha
Bangalore, dated : 11.11.1997

NOTIFICATION

Whereas the draft of the following rules further to amend the Karnataka Civil Services (Conduct) Rules, 1966 was published as required by subsection (2) of the section 3 of the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) in Notification No. DPAR 3 SRC 97, dated 21.7.1997 in part - IV Section 2 (c) (i) of the Karnataka Gazette dated 25.9.1997 inviting objections / suggestions from all persons likely to be affected thereby, within 30 days from the date of its publication in the Official Gazette.

And whereas the said Gazette was made available to the public on 25.9.97.

And whereas no suggestions or objections have been received by the State Government on the said draft.

Now, therefore, in exercise of the powers conferred by subsection (1) of Section 3 read with Section 8 of the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990), the Government of Karnataka hereby makes the following rules, namely :

Rules

1. Title and commencement :

(1) These rules may be called the Karnataka Civil Services (Conduct... (...Amendment) Rules, 1997.

(2) They shall come into force from the date of their publication in the official Gazette.

2. Insertion of new rule 29A : After rule 29 of the Karnataka Civil Services (Conduct) Rules, 1966, the following rule shall be inserted, namely -

"29A. Employment of Children - (1) No Government servant shall employ any child below the age of fourteen years to work for domestic help ;

2. Breach of sub-rule (1), by any Government servant shall amount to misconduct attracting any of the penalties specified in clauses (v) to (viii) of rule 8 of the Karnataka

Civil Services (Classification, Control and Appeal) Rules, 1957".

By order and in the name of the
Governor of Karnataka

Sd/-

(K. L. Jayaram)

Under Secretary to Government - II
Department of Personnel and
Administrative Reforms (Service Rules)

To :

The Complier, Karnataka Gazette for publication in the next issue of the Extra - ordinary Gazette, and furnish 500 copies of the notification.

Copy to :

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Children as Domestic Help

Tapati Dutta

India with 44 million child labourers has the highest incidence of child labour in the world. While 10% of them are engaged in various industries, the rest 90% are bonded (Child Labour, Prachi Jaiswal, 1996). Large number of children are in the unorganized informal sector in which most of them are engaged as domestic labour. Yet this segment of workforce remains almost invisible and unaccounted in all the official sources of data. Whatever information is available is in the form of rough estimates which delimits on arriving at any realistic assessment of the nature and magnitude of the problem. Independent substantive studies on domestic workers on the quantum, characteristics of employment are also conspicuous by their absence. Sporadic studies like those in the Shramshakti report (1998) says that there were 16.8 lakh female workers as against 6.2 lakh male domestic workers showing a clear trend of feminization of domestic work. This finding was substantiated by another study of the early 80s Catholic Bishops' Conference of India, which pointed out that about 78% of domestic workers in 12 cities were female. An estimate of National Sample Survey (1979) reveals that 10-20% of the total child labour force are engaged as domestic labour.

This is also one of the areas where basic labour rights are grossly violated. Hours of work are long from early morning to late night with rarely a fixed holiday. There are brutally beaten up for false theft allegations, illegal detention in the houses of inmates, sexual abuse of male and female children. The ironical part is that bureaucrats, parliamentarians and the elite are also employers of such children since they feel more comfortable with children who remain more docile and shy. The recent government order preventing Government employees from employing children is indeed in the right direction yet there is no guarantee for its proper implementation.

With a span of few months, Delhi has witnessed a number of horrifying cases of torture against child domestic labour. A detailed knowledge of some of these cases would help us to understand the pitiful situation they are in.

A boy of 14 in the house of Muradnagar (Ghaziabad) MLA, was shot in the mouth by the MLA's personal security officer when he had delayed to offer a glass of water. When the CACL team went to the hospital and met the doctor, it was revealed that the boy was already released. He was in the hospital for a month and half and was slowly recovering. His ear bones were broken which meant a complete loss of hearing in one ear. The doctor did not have any idea regarding where he stayed or who was bearing the expenses of his treatment. Since then the doctor said that the boy did not come any more for his OPD treatment and nothing more is known.

Later, on November 22, a teenage domestic help, Suraj Kumar Das was accused of theft, beaten up and allegedly thrown off the second floor of the building in Greater Kailash. Ironically the theft for which Suraj was accused of, took place even before he had started work. The employer was later arrested and further investigations are going on. But the boy's family members are withdrawing the case now since they feel that this whole issue might lead to some more harassment by the police.

On December 3, a teenage worker, Neetu Ray, accused of stealing Rs. 2,000 from her employers committed suicide note was recovered from the spot, the police have not ruled out the role of her employer's family in the case. Yet according to the Malhotra family (where the girl was employed) it was a sheer case of depression after the girl's father committed suicide and the mother also tried to end her life several times. The police are still in the process of investigating into the casual factors of the death.



For nearly a month Mangal, a 12 year old domestic worker suspected of having committed theft was beaten black and blue by his employers. The police was informed this by a neighbour on December 7, 1999, when they went and rescued the child. Though an attempt was made to pass off his injuries as 'accidental', the police got a medical examination done and registered a case of wrongful confinement and assault on the basis of the boy's statement. The police had arrested the employer and his wife and later released them on bail since the offences committed by them under sections 342, 325 and 34 IPC were bailable. On the other hand, the boy's father took an order from the police and has taken him home saying that his mother is not keeping well.

Towards the end of December 1999, Raj Kumar Sharma (9 years) was admitted in the RML hospital after being branded with hot knives and assaulted by his employer for hand.

Such are the cases, some of which are solved and many remain unresolved, unreported. It is observed as a general trend in most of these cases, that the children and their families try to keep themselves away from any type of investigation. Adequate sensitization needs to be generated so that common masses realize that child labour is a social evil and divulge the truth. Implementation of the existing laws is only possible when the administration, the legal system and intervening NGO's work hand in hand.

several months. The boy had multiple scars on his chest and back. His employer of the Corporation Bank, Karol Bagh Branch, Delhi, comes from the same place (Chapra, Bihar) as Raj Kumar. The boy is now residing with one of his relatives in Delhi. Since then the employer's house is locked and the neighbours say that they have no idea where they have gone.

Task Force Against Domestic Child Labour

Interim Fact Finding Report

PREFACE

This interim report probes into the death and circumstances leading to the death of two child - domestic labourers (in separate incidents), in Mumbai, in the last week of December, 1998, and the gruesome abuse of another in April 1999.

It is a combined effort of the Task Force, set up by four NGOs/Networks, working with child labourers and on Child Rights issues and Domestic Work in Mumbai, India.

The terms of references for the Task Force:

- To obtain first hand detailed information on the causes that led to the deaths of Cherry, Radha and Asha
- To gain an insight into official action taken, so far and its results.
- To document similar cases of exploitation of child domestic workers in Mumbai in the recent past.
- To recommend further official action pertaining to both cases.
- To recommend action required at the level of State as well as, by the Central government and its agencies.

The information collected and referred to in this report consist of primary data, in the form of interviews of the neighbours, persons, working in / residing in the colonies, interview with the police, media, persons, the coroner, and the like.

Secondary data include, the FIR / ADR, the Post Mortem report, supplementary statements collected by the Police, photographs of the Post Mortem examination, and the like.

CHERRY SHERPA

Died before being admitted to hospital:

Eight year old Cherry Korpas alias Chenga Sherpa, working as a domestic worker with Mr. Saroj Nandlal Pradhan (26 years) - an employee of the Indian Navy. (LRO - radio operator) -

died on 22nd December, 1998. Mr. Saroj Pradhan and his wife Sushmita Pradhan (25 years), reside in 10 B, Brishabh, New Navy Nagar, Colaba, Mumbai. This is a residential colony for the employees of the Indian Navy. Both hail from Darjeeling in West Bengal. They have a two year old son (name not known). The date of their arrival in Mumbai is not known at the time of filing this report.

No food and water for two days : Cherry was lying cuddled in one corner of the house, in a crouched manner. He had not eaten any food nor had he taken water. On 22nd December, a neighbour (name unknown at the point of filing this report), persuaded Sushmita to wake the boy and feed him with tea at the least. Sushmita said "who dhong karta hai" (he is acting). Earlier Sushmita had tried giving him some solid food, but Cherry said he could not eat because his swollen mouth (from the inside) was really painful. He was however "very thirsty".

Head injury : Cherry vomited twice during the day on 22nd December (Sushmita has made a statement that he vomited due to a head injury, which occurred after he fell down in the bathroom). Seeing him vomit, Sushmita then took Cherry to the hospital, where he was examined by the doctors and declared dead on admission. The doctors also informed the police about the death, on account of several wound marks and scars on the Cherry's body.

Under-fed and beaten : On 23rd December, in the evening the doctors came out with the Post Mortem report. However sources inform that the boy's body bore a long burn mark on the right side of his face. His fingers were also swollen. There was a belt mark running across his two eyes and forehead. There were also belt marks on his back. One of his front teeth were broken. The Post Mortem Report states the cause of death as "death due to head injuries, in a mal-nourished, battered child".

Police arrest the couple : On 23rd December (evening), the Post Mortem report (PMR) was handed over the police. On same day in the evening itself, the Colaba police (Crime Detection Dept., Inspector Sunil Babar) arrested both Saroj Pradhan and his wife Sushmita Pradhan.

Saroj Pradhan is presently lodged in the Colaba Police Station and his wife, Sushmita Pradhan in the Azad Maidan Police Station. They have been booked under Section 302, 34 of the IPC.

Saroj is not yet dismissed from the Indian Navy. Until he is lodged in the jail, he will not be paid his salary. But once out on bail, he can resume duty.

Father performs last rites : Saroj's father, coming from Darjeeling himself, brought Cherry's father over to Mumbai. Cherry's body was kept in the Coroner's court, till Dorji's arrival. Dorji was taken to the Colaba police station to identify Saroj and his wife Sushmita, as well as his son's body. Cherry's body was cremated on Sunday, 27th December, after the completion of the above process. Dorji was taken back to Darjeeling by Saroj's father again, on 31st December.

Cherry's father : Cherry Sherpa came to Mumbai three days after Diwali. He hails from Darjeeling in West Bengal. His father, Pasang Dorji Karma Sherpa is a casual labourer living in Darjeeling (residing at Shiang Ho Bast, Post Pasboria, Ludhiana Thana, Tal & Dist., Darjeeling, West Bengal). Dorji Sherpa is said to be known to Sushmita's family in Darjeeling.

Unaware of the exploitation of his son: Dorji Sherpa sent his son, Cherry to stay with Saroj believing he will look after his son. Dorji is understood to have said, "woh pada rahega", (my son will at least exist there) and was totally unaware of the repeated injuries inflicted upon his eight year old son.

Sushmita's profile : Whether Cherry used to cook food for them is unclear. He was however made to do errand jobs. Sources state that Cherry was repeatedly beaten up, during the last two months since his arrival here. Sushmita used to complain that Cherry does

not have a bath every day. This grouse was a pretext of beating him.

Cherry slashed with a knife : On one occasion Sushmita was reportedly cutting vegetables and was also upset over Cherry's behaviour. She is understood to have slashed him arm with the vegetable knife. On some occasions, Cherry used to develop burn marks on his face. On enquiry to whom Sushmita would respond by saying that " he has mosquito bites on the face and he scratches the marks off". Sushmita, after the death of Cherry, is said to have confessed to her brother that she did indeed use a belt to beat Cherry on more than one occasion.

Saroj's profile : Saroj on the other hand confessed to his father that, on several occasions, Sushmita used to complain to him about different things that Cherry did wrongly or did not do at all. She would usually do this soon after Saroj would return home tired, after a hard day's work. Saroj also reportedly told his father that on hearing these complaints, he used to get a fit of anger and beat up Cherry with his belt. Source says that he is understood to be of a diffident nature, hardly speaks and probably having an inferiority complex.

Saroj's father : Not much could be gathered about his background. He however was with Dorji-Cherry's father - accompanying him to Mumbai, to the police station, to identify the accused, giving a statement to the police, the cremation of Cherry, and finally returning to the police station, to identify the body, identify the accused, giving a statement to the police, the cremation Cherry, and finally returning to Darjeeling.

RADHA

Fell off the fire escape : Twelve year old Radha, an orphan from Bihar, was a domestic worker employed by Mr. Vidhan Chandra and Mrs. Kumkum Sharma. They reside at the Customs Housing Colony, Powai, Radha died after a fall reportedly - from the 8th floor of their residential complex, at 10.26 p.m. on 23rd December, 1998. The Sharmas live on a fourth floor flat while Radha is said to have fallen off the eighth floor, through a fire escape duct.

Employer, and his family : Mr. Vidhan Sharma works as an Appraising Officer with the Customs Department of the Government of India. The family had moved into the housing colony in June 1998, just like the 75 other such families in the colony. Mr. and Mrs. Sharma have two children, the elder one, a four year old boy and the younger is three months old.

Detailed witness accounts : Mr. Atul Sharma, a resident on the second floor of the same building, arrived home at around 10.00 p.m. on 23rd December. Soon after he arrived home, he crossed over to the windowsill of the first room, to close the glass shutters, in order to avoid the mosquitoes. He heard a 'thud' sound but could not actually see what had happened. But he could recognize that a body was lying outside. He rushed down stairs. He then saw a body lying and realised what had happened. He went over and checked the wrist and eyes. The pulse had stopped and eyes were dilated.

Dead before reaching the hospital : Later Mr. Atul Sharma saw two ladies rushing out and soon several men also gathered. The four year old son of the Sharmas soon came down and was followed by his mother. Mr. Atul Sharma asked who the dead girl was, and in response Mrs. Sinha (a resident) said, she is a 'maid servant' and works with Mr. & Mrs. V. C. Sharma. Soon Mr. V. C. Sharma was seen rushing from the stairs. On seeing what had happened, Mr. V. C. Sharma yelled in shock and asked for someone to help him get Radha to a hospital. He also checked Radha's eyes and pulse. Immediately Mr. Vishal Nirwal brought his car. Mr. V. C. Sharma put Radha in the car and rushed to the hospital. They arrived at the Powai Poly Clinic, at IIT, Powai, where the doctors declared she was dead before arrival.

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 Sharmas. Police Inspector, Mr. Agarkar, has audio taped the child's statement. But he said he can not give the tape to the Task Force, since the tape was meant for his "personal record". Mr. Agarkar has utilized this audio-taped statement as a basis to register this case as an "accident". Hence an Accident Death Report has been filed instead of FIR.

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

On one occasion, some residents found Munni crouched on her bed, almost unable to move or speak. She was bleeding in her nose and below the eyes. Mr. Vinod Kumar, another resident stated before the Task Force, that the residents immediately agitated before Sharmas demanding an explanation. They also pressurized the Sharmas to immediately take Munni back to her native place in Bihar. Munni was taken to Patna within a few days, by Mrs. Kumkum Sharma's brother. On his return to Mumbai, her brother brought Padma along.

Checks always swollen : The lift-man has testified that he also found Radha in a bad shape. "I always found Radha with a swollen cheek. She used to say she had been slapped by the memsaab (Mrs. Sharma)."

Mrs. Sharma beat them regularly : Some residents like Mr. Ashok Kumar, feel they should have registered a case with the police when Munni was found injured. They could have at least saved Radha, he feels. The lift man 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 lift-man, Mr. Tukaram Mungal, is also 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. She was seen by the Colony's safai kangaar, Shrimati Bhanu, Bhanu asked Radha why she was crying and Radha said "madam ne maara" (my employer beat me)'. Bhanu is witness to these such occasions, when she heard loud cries coming from inside the house of the Sharmas. These cries, she states were of Munni, who was being beaten by Mrs. Sharma.

Bhanu said Mrs. Sharma knew that Radha used to tell her about who beat her. Bhanu said, "madam niche aati thi to khunnas se dekhani thi" ("When ever Mrs. Sharma saw me down-stairs, she used to look at me with anger").

Similarly, the lift man says, Munni was once beaten with a "salia" (long bamboo stick), to which Munni pointed later and showed him the source of her bruises. Later, both of them were in the lift, when Munni was carrying an over size basket full of clothers to dry on the terrace. While Munni told him that she was beaten by Mrs. Sharma, she also said: "Saab ko mat bolna" (please don't tell my employer that I told you).

Radha never went to the eighth floor : Another interesting statement was made by the lift-man, that (during his presence/duty) Radha never went to the eighth floor in the past. He said she only moved between the fourth Floor (where the Sharmas lived) and the tenth, to go to the terrace for drying clothes.

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's 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 plumber the next day, and fixed the grill on the window.

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

Secondly, the Police had sought a specific information from the PMR. They asked what would be the nearest time of Radha's death. While not directly stating the approximate time of death, the PMR states Radha's stomach was empty while the PMR was being undertaken. The PMR speculates that Radha might have died before having dinner. In connection with this is another fact that Radha's time of deaths is confirmed by witnesses to 10.27 p.m. what needs to be probed is why Radha on an empty stomach at that time in the night. More importantly, a probing on whether Radha was really died at 10.27 p.m. is essential.

The Task Force met with Mr. and Mrs. Sharma. During the 20 minute conversation, both Mr. and Mrs. Sharma stated they had never beaten either Radha or Munni. Mr. Sharma said he had only on occasions beaten his elder son or his brother.

ASHA SUDAM THORAT

Information from the Newspaper report of Monday 6th April 1999.

The Incident : 16 year old Asha Thorat was working as a full-time domestic worker with Mr. & Mrs. Gajwani at Rahul Nagar, Mulund. She was allegedly bitten by her Employers for sexual pleasure.

The family : Mr. Raj Gajwani is a doctor. He has his own dispensary at Rahul Nagar where they are staying. Dr. Raj stays with his wife Saroj and their son.

March 31st : Shantabai Kamble, a domestic worker, noticed that Asha's employers were beating her. To rescue Asha, she took the support of nearby residents of Rahul Nagar, a Mandal Group belonging to the RPI.

They rescued Asha from her employers and registered a case in the Mulund Police Station and demanded that the accused be arrested.

The Case : The Mulund Police Station however registered a bailable offence of simple assault and released the doctor and his wife Saroj, within minutes, not even waiting for the hospital reports.

The Medical report : Doctors at the Hospital said that the bite wounds were fairly deep and some of them quite old. "Asha has developed pustular eruptions all over her body" a doctor said, adding that it was probably due to infection.

Role of the Task Force : 7th April' 99. After going through the Newspaper reports, members of the Task Force proceeded to Mulund Police Station to find out more details about Asha's case. Inspector Gowda at Mulund Police Station hesitated to give information about Asha but instead gave the address of Mrs. Kamble who had lodged the complaint.

Members of the Task Force then visited Asha in the Hospital. The very sight of Asha was shocking. Her swollen eyes and the scars of severe physical torture spoke volumes on the inhumane treatment meted out to her.

8th April, 99. When the Task Force members reached the hospital and met Asha there as she had just been discharged. Inspector Chowdhary had signed the discharge form. Many people from different political parties and several reporters were approaching them.

Roll of Media : Newspaper reporters and City Cable interviewed Asha and her family. They videographed the injuries of Asha and they televised it at 9.30 p.m. the same day. (8th April)

9th April 99 : Along with an advocate, Task Force Members once again visited Asha and her family. Unfortunately they could not meet her father, they only met the step-mother and grandmother. They allowed the Task Force to photograph Asha's injuries and wounds. However, they were not willing to get the detailed medical report from the Government Hospital, about the incident unless Mrs. Kamble and the Mahila Mandal members consented to the same. The Task Force contacted Mrs. Kamble and the Mahila Mandal members. Their statements are recorded below.

Mrs. Kamble's statement : Shantabai Kamble stated that during the last 3 months the employer used to take Asha in the car at 3 p.m. everyday and bring her back at 5 p.m. On

31st March, Shantabai heard Asha crying for help and decided to go to her rescue along with other Mahila Mandal members. She then lodged a complaint with the police.

RPI Leader's statements : According to the RPI leaders Godavaribai and Inderjit Kamble, the employer who is a doctor, was treating three cases of drug addiction. After the injection given by the doctor, the patients used to get wild. In order to control them the doctor used to keep Asha there so that they can use her. They also stated that the employer had bribed the police. Asha's step-mother's parents were ready to compromise with the employers for the sake of money, but the Mahila Mandal members objected to this and stongly advised them not to do so.

Bengali couples' statement (the tea stall owner and his wife) : They noticed since last 3 months that, Asha had become very thin. She used to often signal from the window of Gajwani's flat that she was hungry and wanted something to eat. Whenever she came down they used to give her 'Vada Pav' free of cost. They also stated that Asha had been contemplating suicide 15 days ago. Together with Godavaribai and the other residents they rushed to Gajwani's flat to save Asha. Mrs. Gajwani alleged that since Asha had stolen and had been confronted, she was desperate and wanted to end her life.

Mr. Sudam Thorat's statement (Asha's father) : He was very upset by Asha's condition and by the rumours that he had received Rs. 15,000/- in return for placing Asha to work with the Gajwani's. He admitted that his second wife ill treated Asha and therefore his sister decided to place Asha in another environment. Eight years ago she was therefore placed as a domestic worker with the Gajwani's.

Statement of Asha : For the last 8 years she said that she did not have any problems from the employers. Suddenly during the last 3 months the employers started harassing her by scratching and biting her. She also stated that the Employer used to give her 3 tablets daily in the afternoon and at night. After consuming them she used to become unconscious. When she awoke, her body used

to pain and her employer Mrs. Gajwani used to be beside her. She therefore concluded that Mrs. Gajwani had committed these acts of scratching and biting on her.

Task Force Against Domestic Child Labour

PRESS NOTE

Cherry Sherpa (Colaba), Radha (Powai) and Asha Thorat (Mulund) all three domestic workers, have all been helpless victims of battering, violence and abuse repeatedly inflicted upon by their employers. Asha was luckier among the three, she survived. Cherry and Radha are dead.

Cherry Sherpa a child of eight years, was brought here from Darjeeling by Saroj Pradhan an employee of Indian Navy during Diwali in 1998. Cherry was continuously battered for nearly two months by his employers, Saroj and Sushmita Pradhan, at the Naval Colony, in Colaba and was often kept hungry and thirsty because of alleged "indiscipline". Receiving boot kicks and knife wounds were not an uncommon feature for Cherry. He eventually succumbed to forced starvation and battering, on 22nd December, 1998.

Radha, an orphan of twelve years was brought to the city in late 1998, by Mr. Vidhan Chandra Sharma, an employee of Central Excise. Government of India, who resided in the Powai Colony of the government quarters. Mrs. Kumkum Sharma often beat up Radha, a fact testified by the colony's watchman, cleaner and several neighbours. Mrs. Sharma is said to have similarly subjected Munni, another domestic worker, to repeated battering and starvation before some neighbours forced the employers to send Munni back to Bihar. Radha was found dead, after a fall from the eighth floor terrace of the housing complex, though eyewitness accounts state there was neither any shriek or panic shouting heard before the fall, nor were any external bleedings seen at the sight of her fall.

Asha Thorat, a sixteen year old domestic worker at Dr. Gajwani's residence was similarly subjected to drugging repeatedly. She was taken to his residence and made an object of sick

sexual gratification by the doctor and his wife. Asha survived because of the vigilant intervention of another domestic worker who then initiated wider community outcry against the doctor and his wife. However, despite this incident, the doctor and his wife are out on bail and he continues his practice.

Given the series of such cases : The Child Line, Mumbai House Workers Solidarity, Campaign Against Child Labour and SETU, came forward to constitute a Task Force Against Domestic Child Labour. This Task Force examined each of the three cases more closely and has come out with an interim fact finding report.

There are some common features derived from all three cases :

- the employers have been inflicting these injuries and battering repeatedly, over weeks and months.
- the employers have amply demonstrated the extent of their disturbed mentality, going by the gruesome third degree battering of the children.
- the employers are all professionals, two among them being government employees, who have been treated leniently by the respective government departments.
- the child domestic workers have had no recourse to help or were working in conditions of absolute bondage and slavery.
- these children constitute a force that is predominantly invisible and silent and hence subject to a higher degree of exploitation and abuse.
- the children were continuously locked in the homes and no opportunity to share / express their anguish and pain, proving to be a critical psychological hazard.
- the employers do have their own children who have been well protected, which clearly demonstrates that the employers have exploited the class background of the domestic workers to further abuse them.
- even though the children have been in conditions of extreme exploitation and

abuse, the law permits the employment of children in domestic work sector.

- even though child labour as "Hazardous", the nature of the work, as is amply clear, is extremely hazardous and in fact detrimental to the life of the children, whose very fundamental right to life has been denied and in fact snatched away.

The children have been forced to work for long duration of work from 4 a.m. to 11 p.m. without wages, or low wages.

The fact stares in our face, i.e. children have been denied their right to childhood, right to grow in a manner healthy for their body and mind. They have been denied their right to education and expression.

DEMANDS :

This report is the first move to further highlight the growing phenomenon of rampant and systematic exploitation of children in domestic work in Mumbai.

This Task Force believes the first move to prohibit child domestic labour should come from the State and the Government of Maharashtra.

We believe that the Home Ministry and the police force should resolve and take up such cases in a much more serious manner, instead of subjecting the victims and their families to further trauma, as is evident in Asha's case.

While ensuring there is a ban on children in domestic work, the Government should simultaneously ensure employment for adults in this sector, ensure that adults get minimum wages, get recognition as labourers, with concomitant rights of a worker, and the like.

The responsibility of rehabilitation of the children drawn out of domestic work lies with the government. The children should be given scope to enroll and join schools, and parents should be brought under appropriate support schemes such as the EGS.

The Government should commit to initiate a dialogue, inviting all concerned government departments, non-government organisations, labour lawyers, workers' organisations, trade unions, individuals, and other to evolve a comprehensive plan for the eradication of child labour in the domestic sector in Maharashtra.



Case Studies

Sumitra in Minister's House

CACL held a press conference and dharna in Bijapur and Bangalore and has demanded compensation to Sumitra for her education and activities. The Women and Child Welfare Department has ordered an internal investigation into the incident. We are waiting for their report. CACL filed a PIL against the Minister, Women and Child Welfare Department and the Ashram in Karnataka High Court. At present, Sumitra is at a shelter run by APSA, a member organization of CACL, where she is pursuing her education.

Legal Notice :

The 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 baseless charges.

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 PIL. The following have been demanded.

1. An impartial investigation into the activities of Sumanjali Seva Ashram, specially its role in facilitating adoptions of children.
2. Smt. Vimalabai Deshmukh's alleged actions are inquired into and action be taken according to law.
3. If the guilt of Sumanjali Ashram and Smt. Vimalabai Deshmukh is proved, they have to be booked, to undergo the process of law.
4. Adequate compensation should be paid by the Minister and the Ashram to the guardians of Sumitra, to enable her education (18 years) and rehabilitation as an immediate step.

Ten-year-old Sumitra was sent to the house of Ex-Karnataka Minister of State for Women & Child Welfare, Smt. Vimalabai Deshmukh, as a domestic worker by the Bangalore based organisation Sumanjali Sevashrama. Sumitra was going to school at village Bakasandra of Chamnapatna Taluk in Bangalore rural district. She lost both her parents at a tender age. An elder cousin Shivanamma brought her to the Sumanjali Sevashrama on 12 July 1999 where it was hoped, she could be fed educated. 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 Sevashrama 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 wash 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, Sushclamma acknowledged 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.

CACL condemned this and demanded the Karnataka government for an impartial enquiry.

Name : KAVERI

Age : 13 Years

Occupation : House Maid

Incident Happened: Kaveri's Mother

Committed Suicide

(30th April 1997) Beaten, by employer,

her Police - Tortured,

and harassed.

DETAILS : Kaveri, working as a domestic

servant at one of the real estate's agents

residence was suspected of theft. She was

charged with the stealing of jewellery worth

Rupees 70,000/-

Kaveri was beaten by the house owner and

handed over to the Police. Her house was

searched and found nothing then police took

her to the police station and was detained for

two days. After repeated requests of Kaveri's

mother Nayagam, she was released and again

An inspector of police, a head constable and four constables including a woman were suspended on charges of assaulting Kaveri and wrongfully detaining Kaveri in the police station.

CACL-K team met the girl and recorded her statements. It also held discussions with the neighbours to find out the truth.

Representations were submitted to the Home Minister, Police Commissioner and the concerned authorities seeking justice and compensation to the family.

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Name : Padma
Age : 11 Years
Occupation : House Maid
Present Status : Dead

Padma a 11 year old house worker died of 3rd degree burns on 28th April 1998.

Padma was accused of stealing jewellery from the house where she worked. She was beaten to extract the truth. Her parents were also brutally tortured. Padma was threatened of police action and on the 28th April 1997 she committed suicide by setting herself ablaze after dousing herself with kerosene (As per the investigating police personnel and FIR filed.)

CACL-K visited the location and talked to the Padma's neighbours and spoke to her

parents. It was found that Padma's parents were asked to vacate the place and were sent to their native place and Padma was subjected to severe torture by the employers.

When the locality of the employer was visited and neighbours were contacted it was found that Padma use to work very hard and she was a very brave girl. They suspected that the lady of the house must have killed her, to coverup the matter and she had burnt the body of Padma to twist the case from murder to suicide.

In this case also CACL-K with the help of local organisations fided representations with Governor, Chief Minister and the Home Minister. As a result an enquiry has been ordered.



Name : Mamatha
Age : 12 Years
Occupation : House Maid
Present Status : Died of gunshot

Mamatha (11 years) used to work as a maid servant in the house of an coffee planter at Kodagu.

Mamatha was killed by gunshot which was considered to be an accident. As per the Police the estate manager was cleaning the rifle in the absence of the owner. When he was cleaning

the rifle, he pressed the trigger accidentally thinking that the rifle is empty. But, the rifle was loaded and the bullet smashed the head of Mamatha who was preparing to go to bed after finishing the day long activities.

When, the parents were contacted they said that incident was not an accident, but it was a planned murder.

It is indeed very unfortunate that the whole issue took political turn and the investigations by the CACL-K members had to be withdrawn.



Domestic Child Labourer Rescued Tries To Commit Suicide In Desperation

Shashikala, aged 10 year was working as a domestic (bonded) labourer with N.K.Krishna Murthy, her employer since she was six years of age. Her father sold her off to Murthy for an amount of Rs.3000/-.

Shashikala worked almost like a slave for her employer, reducing her to a malnourished & sickly girl, unable to even speak properly. "I had to wake up at 5 am and work in his fields and later attend to menial jobs that would go on till mid-night," she says.

Her employer never allowed the girl to visit her home these four years, during which time tragedies struck her family. On different occasions, Shashikala lost her brother, aunt, grandfather and even her very own father. Yet

her employer never relented. He disallowed her from even attending the last rites at her father's funeral.

"Unable to bear the ordeal, I even attempted to commit suicide" she disclosed later. This news reached Tayakka, her mother, who then approached Vikasa, a voluntary organisation, to help in rescuing Shashikala. Through Vikasa & CACL-CS, a complaint was lodged with the Asst. Labour Commissioner. Consequently the ALC & Dy. Superintendent of Police, Mysore, teamed up to initiate immediate rescue operation. After filing on F.I.R., a team of the Police and Labour Inspectors rescued Shashikala and filed a case against the employer under CLPRA. At present Shashikala is at a shelter run by RLHP, where she is pursuing her education.

Fact Finding Report

Name : Geeta Ganapathi Gowda
Age : 12 Years
Occupation : Domestic Servant (Live in maid)
Present Status : Dead

Introduction :

The CACL-K, since its inception initiated several fact-finding investigations into abuse, torture and death of children at work place and examined the facts to establish the extent of violation of laws concerning child labourers. These fact finding investigations have also been utilized as the basis for further action by CACL-K and government agencies especially in pursuing litigation demanding against the violators, prompt response, putting forth certain policy demands, mobilizing public opinion against such incidents and raising general awareness about the issue of child labour.

The child labour (Prohibition and Regulation) Act 1986, Supreme Court judgement and the judgement of the High Court of Karnataka clearly bans the use of child labour in domestic labour. To add to it, the Karnataka Government has prohibited all the Government employees from employing children in the domestic work.

Undoubtedly the judicial directives further empowered the Government and specifically the district administration to not just enforce the CLPRA but also provide alternatives for the child and his/her family. And the judgement further acknowledged that education for the child and job for an unemployed adult is indeed a viable alternative to child labour.

To ascertain facts, the fact finding team met the Deputy Commissioner of Uttara Kannada, Superintendent of Police, local rural SI, urban SI, Geeta family, neighbours, Benarga factory Manager, Factory quarters people, NGOs, local leaders, members of the town municipality, various community based organisations and the press.

Description of Events :

On 24th May 1999, a 12 year old girl Geeta Ganapathi Gowda a house worker died under mysterious circumstances. Geeta was working as a house maid at the house of Mr. Somnath

Kamat (Employee of Ballarpur Industries Binaga) and Sudha Kamath (employee of State Bank of India) since 1½ years. On the fateful day, it was reported that Geeta's body was found hanging in the bathroom of the employer's house. She was suspected to have committed suicide.

Investigations of CACL-K revealed 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 flaselly accused of stealing jewellery.

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

Major findings :

The fact-finding team found that:

- a) The police complaint records that the girl hanged herself in the bathroom, but when the bathroom was inspected it was found that the bathroom is very small with a dimension of 5ft and 3ft and the pipe to which Geeta hanged herself (as reported) was at the height of 6ft 8 inches and is protruded to a length of only 1½ inches from the wall. Therefore, it is highly impossible for a girl of 12 years, to tie knot and hang herself from this, one can clearly state that this is clearly a case of murder.
- b) Further, investigations revealed that at the time of incident, the parents, sisters and brother-in-law of Mr. Kamath were present. In spite of so many persons in

the house no one tried to save the girl. This raises the doubts about the authenticity of the suicide and strengthen's the murder hypothesis.

- c) On the same day, that is on 24th May 1999 Mr. Kamath went to Mumbai and came back to Karwar on the next day on 25th May 1999. This move by Mr. Kamath confirms the foul play and effort to conceal and convert the case of murder into a suicide.
- d) The body of Geeta was removed from the rope before the arrival of police to the place of incident.
- e) According to eye witness and the father of the deceased Mr. Ganapathi Gowda, the body had finger marks on the neck region conforming the strangulation. This proves that she was killed and then hanged to twist the case.
- f) Geeta's father also disclosed to the members of the fact-finding team that Geeta was ill-treated and the harassment was doubled after she was allegedly 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 an innocent 12 year old girl. 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 representation to RBI, SBI and to the Ballapur industries.

To build awareness and wide publicity, 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 newspapers.

Based on the above findings, CACL and its members put forth the following demands:

1. That, the death of Geeta should be considered as a murder and the investigations should be carried out accordingly.

2. That, Mr. & Mrs. Kamath be considered as murderers of Geeta and should be booked and punished accordingly. Till such time they should be kept under suspension from their respective jobs.
3. The employers of Mr. Kamath, i.e., Ballapur industries and of Mrs. Sudha Kamath i.e., State Bank of India, should immediately suspend these two and lend a helping hand in providing justice to the victim and punishment to the culprits. If they do not take steps to suspend the culprits they should be considered as aiding in negligence and violation of CLPRA, High Court, Supreme Court direction and the appropriate action be initiated against them in this case.
4. Government of Karnataka should take prompt and speedy action against those who employ child labour. It should empower its concerned departments to take action against those who violate the law, and should provide fool proof mechanism to book cases.
5. Steps should be taken to pay the wages as per the minimum wages act to the family of Geeta for having taken her services for the last 1½ years. The administration should also take steps to pay the compensation of Rs. 5 lakhs to the parents of the girl.
6. The Government should take immediate measures to release and rehabilitate the thousands of children working as domestic servants. They should be ensured of free and compulsory education.
7. In the district of Karwar there are more than 1 lakh child labourers working in various sectors. The hotel industry in Karwar has the maximum number of child labourers working in the most hazardous working conditions. CACL demands all the hoteliers and other employers should be booked and punished as per the Supreme Court directive.
8. CACL also demands that Government should set up a mechanism to strengthen enforcement of the Child Labour (Prohibition & Regulation) Act 1986. The Government should further ensure that a comprehensive review of the act itself be undertaken to include all sectors of child labour.

9. Government should initiate steps to strengthen the poverty alleviation programmes to reach the needy. It should also revitalize and effectively provide free and compulsory education to every child below the age of 14 years.
 10. CACL and its members strongly urge and demand the Government of Karnataka to respond to these demands at the earliest and the action taken, be made known to the public appropriately.
3. The Labour Secretary, Government of Karnataka
 4. The Labour Commissioner, Government of Karnataka
 5. The Deputy Commissioner of Karwar
 6. Superintendent of Police of Karwar
 7. CBI / RBI
 8. M.D. of Ballarpur Industries
 9. National Human Rights Commission, Delhi

This report is being addressed to the following authorities :

1. The Chief Minister, Government of Karnataka.
 2. The Labour Minister, Government of Karnataka
 3. The Labour Secretary, Government of Karnataka
 4. The Labour Commissioner, Government of Karnataka
 5. The Deputy Commissioner of Karwar
 6. Superintendent of Police of Karwar
 7. CBI / RBI
 8. M.D. of Ballarpur Industries
 9. National Human Rights Commission, Delhi
 10. The Minister Women and Child Welfare
 11. The Minister Social Welfare
 12. Union Minister of Labour, New Delhi
- Encl. : Press clippings, photos and other documents.



Name : Joythi
Age : 13 years
Occupation : Domestic Servant employed
at Mysore

Present Status : Dead

Joythi hanged herself and committed suicide (police reports). On 26 Nov 98 a house worker by name Joythi aged 13 years committed suicide at the employers house by hanging. She was employed as an live in maid for 1 A years and she was paid an meagre amount of Rs.100

CACL-K suspected that the tragic death of Joythi as due to harassment and torture by the employers. The employers being in the health and police departments influenced the officials both in health and police to hush up the case, by planning to cremate the body at the electric crematorium after getting the post mortem done in a hurry. In spite of the pleas of the mother that the body should buried as per their customs. Right in time CACL-K contacted the DCP and stalled the cremation and brought back the body for second post mortem to find out the cause of the death.

- After two days the second post mortem was conducted and the body was taken in procession to the Deputy Commissioner's office. Keeping the body in front of the DC's office it was demanded that the employers should be arrested immediately

and also the back wages should be paid.

- Inquiry should be conducted by the COD
- Employers should be suspended and an departmental inquiry should be ordered.
- Dy. Commissioner after holding discussions with the demonstrators assured that he will look into the matter personally and also direct the concerned to take necessary action and make arrangements for the paymet of back wages to the mother, within a fixed period.

After the expiry of the stipulated time set for the action to be taken against the employers and for the payment of backwages CACL-K again organised a dharna to bring pressure on the authorities for the necessary action and an memorandum.

Number of meetings were held with DC, Police Commissioner and the local leaders, representations were sent to the Chief Minister, Home Minister and the Labour Minister to direct the concerned to take appropriate action.

Finally the employers agreed to pay the back wages and Rs. 30,000 was paid to the mother. After the preliminary investigations by the local police the case was handed over to the COD and the investigations are being done.

This campaign for the justice certainly has become a deterrent for others who employ children.



The National Commission for Children Bill, 1999

Prepared by
Centre for Child and the Law
National Law School of India University
Bangalore.

The National Commission for Children Bill 1999 A Bill

To constitute a National Commission for the better protection of child rights and for promoting the best interests of the child and for matters connected therewith and incidental thereto.

CHAPTER - I

Preliminary

1 Short Title, Extent and Commencement

1. This Bill may be called the National Commission for Children Bill, 1999.
2. It extends to the whole of India, except the State of Jammu and Kashmir
3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 Definitions

1. In this Act, unless the context otherwise requires:
 - a. "Chairperson" means the chairperson of the Commission
 - b. "Child Abuse" - means and includes the forms of exploitation enumerated in section 18 of this Act.
 - c. "Child abuser" means any person who habitually engages or abets in child abuse.
 - d. "Commission" means the National Commission for Children constituted under section 3 of this Act.
 - e. "Child rights" means and includes the rights relating to survival, protection, development and participation as elaborated in the Convention on the Rights of the Child, 1989 and the Constitution of India.
 - f. "Member" means a member of the commission and includes the Chairperson;
 - g. "Notification" means a notification published in the Official Gazette;
 - h. "Prescribed" means prescribed by rules made under this Act;
 - i. "Public Servant" shall have the same meaning assigned to it under section 21 of the Indian Penal Code;

CHAPTER - II

The National Commission for Children

3. Constitution of a National Commission for Children

1. The Central Government shall constitute a body to be known as the National Commission for children to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.
2. The Commission shall consist of:
 - a. A Chairperson who has been a Judge of the Supreme Court of India;
 - b. one person who has been an eminent educationalist, especially in the field of primary education;
 - c. one person who has been an eminent health expert;
 - d. one person who has been an eminent expert in the field of child psychology;
 - e. one social activist who has had at least ten years of work experience in the area of child care, child welfare or child rights;
 - f. one person who has been active in the field of social welfare, especially in the area of juvenile justice or care of neglected children;
 - g. one person who has been active in the trade union field, especially one who has been working among unorganised women and girl children;
 - h. one person drawn from the legal fraternity who has made a mark either as a Judge of a High Court or as an academic who has worked consistently in the area of child rights.
3. There shall be a Member-Secretary, who has been actively associated with the work of child care, child welfare or child rights, to be nominated by the Central Government, who shall be the Chief Executive Officer of the commission and who shall exercise such powers and discharge such functions of the Commission as it may delegate to him.
4. The Head Office of the Commission shall be in Delhi and the Commission may, with the permission of the Central Government establish Offices at other places in India.

4. Term of Office and conditions of service of Chairperson and Members :

1. The Chairperson and every member shall hold office for such period, not exceeding five years, as may be specified by the Central Government in this behalf of until the age of 70 years whichever is earlier.
2. The Chairperson or a member, may by writing and addressed to the Central Government, resign from his office at any time,
3. The Central Government shall remove a person from the office of Chairperson or member of the commission, if that person-
 - a. becomes an undischarged insolvent;
 - b. gets convicted and sentenced for an offence which in the opinion of the Central Government involves moral turpitude;
 - c. becomes of unsound mind and stands so declared by a competent court;
 - d. refused to act or becomes incapable of acting;
 - e. is, without obtaining leave from the Commission, absent for three consecutive meetings of the Commission; or
 - f. in the opinion of the Central Government so abused his position as to render that persons continuance in office detrimental to the public interest;

Provided that no person shall be removed under this clause unless that person has been given a reasonable opportunity of being heard in the matter.

4. Any vacancy that is caused shall be filled by fresh nomination.
5. The salaries and allowances that is payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. Officers and other employees of the Commission :

1. The Central Government shall provide the Commission with such Officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.
2. The salaries and allowances payable to, and the other terms and conditions of, the officers and other employees appointed for the purpose of the commission shall be such as may be prescribed.

6. Salaries and allowances to be paid out of grants :

The salaries and allowances payable to the Chairperson and Members and the administrative expenses including salaries, allowances and pensions, payable to the officers and other employees of the Commission shall be paid out of the grants referred to in sub-section (1) of section 12.

7. Vacancies, etc., not to invalidate proceeding of the commission :

No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. Committees of the Commission:

1. The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.
2. The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend meetings of the committee and take part in the proceedings, but shall not have the right to vote.
3. The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.
4. To co-ordinate the work of the committees, the chairperson may nominate any person of his choice as convener of the committee concerned.

9. Procedure to be regulated by the Commission :

1. The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and places as the Chairperson or the convener as the case may be, may think fit.
2. The Commission and the committee shall regulate their own procedures respectively.
3. All orders of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER - III

Functions of the Commission

10. The Commission shall perform all or any of the following functions :

1. Constantly endeavour to understand the prevailing as well as the continuously evolving reality of children in all kinds of difficult circumstances. Such understanding may be gained through interaction with specialised Governmental and Non-Governmental agencies, researchers, professionals, institutions or well meaning individuals working consistently for the best interests of the child and above all by relating to children themselves.



2. Encourage study, research and reflection about the child, including legal processes affecting the child so as to develop a healthy, dynamic, child friendly jurisprudence which will sensitively and creatively respond to the best interests of the child.
 3. Study treaties and international instruments on child rights and make recommendations for their effective implementation.
 4. Undertake and promote research and facilitate documentation in the field of child rights.
 5. Monitor, scrutinise and evaluate steps taken by the Government for the welfare of children and to recommend suitable measures for achieving the goals laid down in the Convention on the Rights of the Child as well as in Part III and Part IV of the Constitution of India which have a bearing on the welfare of children.
 6. Visit, under intimation to the state Government, or appropriate authority any jail, lock-up, state home or any other place of residence or institution meant for children, under the control of the Government or other authority, where persons are detained or lodged for purposes of treatment, reformation or protection; to study the living conditions of the inmates and make recommendations thereon, in the light of appropriate international standards.
 7. Inquire suo moto or on a petition presented to it by a victim or any person on behalf of the victim, into a complaint of - (a) violation of child rights or abetment thereof; or (b) Negligence in the prevention of such violation by a public servant.
 8. Propose, evolve, promote and help consolidate and multiply creative interventions, through critical collaboration and dynamic partnership between agencies of the state and voluntary organisations.
 9. Boldly encourage experiments in new forms of managing state run institutions by involving committed innovators and even handing over, on an experimental basis, the management of such institutions to voluntary organisations, so as to demonstrate and learn lessons for institutionalising reform and innovation.
 10. Suggest corrective remedies, propose changes, encourage new programmes and plans of action, monitor and fix responsibility for repeated non-compliance by officers entrusted with special reformatory and innovative tasks by the Commission.
 11. Intervene in any proceeding involving any allegation of violation of Child Rights pending before a court with the approval of such court.
 12. Identify and remedy all harmful and dehumanising practices pertaining to the child, especially the girl child, whether within the family, the community, the educational institutions, the place of work, or in any institution for children, run by the state or the voluntary sector.
 13. Spread Child Rights literacy among various sections of society including children themselves, and promote awareness of the, safeguards available of these rights through publications, the media, seminars and other available means.
 14. Encourage beneficial efforts of non-governmental organisations and institutions working in the field of Child Rights.
 15. Report periodically to the union Government about the current status of welfare programmes and pro-active interventions meant for the child and recommend steps to strengthen positive trends and put down negative features vis-a-vis the best interests of the child.
 16. Propose suitable law reform in the area of Child Rights.
 17. Such other functions as it may consider necessary for the promotion of Child Rights.
- 11. Powers relating to Inquiries**
1. The Commission shall, while inquiring into complaints under this Act, have all the powers as that of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely:
 - a. summoning and enforcing the attendance of witnesses and examining them upon oath;
 - b. discovery and production of any document;
 - c. receiving evidence on affidavits;
 - d. requisitioning any public record or copy thereof from any court or office;
 - e. issuing commissions for the examination of witnesses or documents;
 - f. any other matter which may be prescribed.
 2. The Commission shall have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.
 3. The Commission or any other officer, not below the rank of a Gazetted officer, especially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of

the inquiry may be found and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

4. The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the India Penal Code is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case in forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.
5. Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

12. Investigation

1. The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.
2. For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission -
 - a. summon and enforce the attendance of any person and examine him;
 - b. require the discovery and production of any document; and
 - c. requisition any public record or copy thereof from any office.
3. The provisions of section 12 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section(1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.
4. The officer or agency whose services are utilised under sub-section(1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission

within such period as may be specified by the Commission in this behalf.

5. The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

13. Statement made by persons to the Commission :

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement —

- a. is made in reply to the question which he is required by the Commission to answer; or
- b. is relevant to the subject matter of the inquiry.

14. Persons likely to be prejudicially affected are to be heard

If, at any stage of the inquiry, the Commission-

- a. considers it necessary to inquire into the conduct of any person ; or
- b. is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence;

provide that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER - IV PROCEDURE

15. Inquiry into complaints

The Commission while inquiring into the complaints of violations of child rights may —

1. call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it;

Provided that —

- a. if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;
- b. if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or

authority, it may not proceed with the complaint and inform the complainant accordingly;

2. Without prejudice to anything contained in clause(i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

16. Steps after inquiry

The Commission may take any of the following steps upon the completion of an inquiry held under this Act namely :

1. where the inquiry discloses, the commission of violation of child rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
2. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
3. recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
4. subject to the provisions of clause (5), provide a copy of the inquiry report to the petitioner or his representative;
5. the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;
6. the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

17. Annual and special reports of the Commission

1. The Commission shall submit an annual report to the Central Government and to the State

Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

2. The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations if any.

CHAPTER - V

18. Elimination of worst forms of the Child Abuse and Exploitation

1. The following shall be treated as the worst forms of child abuse and exploitation and the commission shall take steps mentioned here under to prevent and abolish the same:
 - a. Physical or sexual abuse of children;
 - b. All forms of pre-natal sex determination;
 - c. Discrimination against a disabled child;
 - d. Maltreatment of refugee children;
 - e. Maltreatment by a person in authority of a child under his or her authority including maltreatment by a teacher of a child at school;
 - f. 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;
 - g. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
 - h. The use, procuring or offering of a child for illegal activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.
2. Whoever habitually engages in or habitually abets in the engagement of any of the worst forms of child abuse or exploitation shall be guilty of being a child abuser and shall be dealt with in accordance with the procedure laid down in this Act.
3. Where any information or report is received by the Commission from any individual, group of activists, or when the Commission suo moto learns about any practice of the worst forms of child abuse or exploitation, the Commission may initiate suitable steps in accordance with the procedure laid down in chapters III, IV & V of this Act.
4. After complying with due procedure the Commission may, if satisfied that any

individual is responsible for habitually engaging in or perpetuating any of the worst forms of child abuse or exploitation, name the person as a 'Child Abuser' and direct him to desist forthwith from such abuse.

5. If the offender does not comply with such direction within 30 days, the Commission may give wide publicity to the conduct of such abuser through all appropriate media means as the Commission may deem fit.
6. If the child abuser still continues to persist with the abusive conduct even after a further period of 30 days from the date of which such publicity is given then the Commission may direct such person to remove himself beyond the limits of such area as may be specified and by such route and within such time, as laid down in the order and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as specified in the order.
7. (i) The Commission shall, along with the order under sub-section (4), (5) or (6) communicate to the persons directed under that sub-section the grounds on which such order has been made.
(ii) The Commission may revoke or modify the order made under sub-section (4), (5) or (6) for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

19. Procedure on failure of person to remove himself from area and entry thereon after removal:

1. If a person to whom direction has been issued under Section 18 to remove himself from any area –
 - a. fails to remove himself as directed; or
 - b. having so removed himself enters such area within the period specified in the order.

Otherwise, than with the permission in writing of the Commission, the Commission may cause him to be arrested and removed in police custody to such place outside such area as the Commission may specify.

2. The Commission may, by order in writing, permit any person in respect of whom an order under Section 18 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.
3. The Commission may at any time revoke any such permission.

4. Any person who, with such permission returns to the area from which he was directed to remove himself shall observe the conditions imposed and at the expiry of the temporary period for which he was permitted to return or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under Section 18, without a fresh permission.
5. If a person fails to observe any of the conditions imposed or to remove himself accordingly having so removed himself enters or returns to such area without fresh permission the Commission may cause him to be arrested and removed in police custody to such place outside such area as the Commission may specify.

20. Rehabilitation:

1. The Commission shall initiate concrete measures in consultation with the appropriate Government to facilitate the rehabilitation of the victim of child abuse.
2. The Commission may also facilitate the reunion of such child with the family and the enrolment in an educational institution. In consultation with the district educational officer and recommend that the cost of such education, including the residential facilities required should be provided to the child free of cost by the concerned State Government.
3. Whenever any proceeding pertaining to the identification, release and rehabilitation of the worst forms of child abuse or exploitation is initiated under this chapter, the Commission shall take care to ensure that all stages of the proceedings are complete as part of a single relief package to be implemented as expeditiously as possible within a time bound programme.

CHAPTER - VI

STATE COMMISSIONS FOR CHILDREN

21. Constitution of State Commissions for Children

1. A State Government may constitute a body to be known as the (name of the State) Commission for Children to exercise the powers conferred upon and to perform the functions assigned to, a State Commission under this chapter.
2. The State Commission shall consist of:
 - a. a Chairperson who has been a judge of a High Court;
 - b. one person who has been an eminent educationalist, especially in the field of primary education;
 - c. one person who has been an eminent health expert;

- d. one person who has been eminent in the field of child psychology;
 - e. one person who has been active in the field of social welfare, especially in the area of juvenile justice or care of neglected children;
 - f. one person who has been active in the trade union field, especially one has been working among unorganised women and girl children;
 - g. one person drawn from the legal fraternity who has made a mark either as a judge of a District Court or as an academic who has worked consistently in the area of child rights;
3. There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.
 4. The headquarters of the State Commission shall be at such place as the State Government may, by notification specify.
 5. No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

22. Term of Office of Members of the State Commission

The term of office and conditions of service of the Chairperson and members of the State Commission shall be identical to those provided for the Chairperson and members of the National Commission, except in so far as it relates to salaries, allowances and the like.

23. Terms and conditions of service of Members of the State Commission

The salaries and allowances payable to and other terms and conditions of service of the members shall be such as may be prescribed by the State Government.

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

24. Officers and other staff of the State Commission

1. The State Government shall make available to the Commission -
 - a. an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the state Commission; and
 - b. such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State commission.

2. Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.
3. The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

25. Annual and special reports of State Commission

1. The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.
2. The State Government shall cause the annual and special reports of the State Commission to be laid before each house of State Legislature whether it consists of two Houses or where such Legislature consists of one House, before that house along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

26. Application of certain provisions relating to the National Commission for Children to State Commissions for Children

The provisions of Section 7, 9, 10, 11, 13, 14, 15, 17 and 18 shall apply to a state Commission and shall have effect, subject to the following modifications, namely:

- a. references to "Commission" shall be construed as references to "State Commission"
- b. in section 10 in sub-section (3) for the word "member secretary" the word "secretary" shall be substituted;
- c. in section 15, in clause (l), the words "Central Government or any" shall be omitted;

CHAPTER - VII

FINANCE, ACCOUNTS AND AUDIT

27. Grants by the Central Government

1. The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.
2. The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).



28. Grants by the State Government

1. The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.
2. The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

29. Accounts and Audit

1. The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such forms as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
2. The Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
3. The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
4. The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid as soon as may be after it is received before each House of Parliament.

30. Accounts and Audit of State Commission:

1. The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such forms as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.
2. The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in

connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

3. The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected voucher and other documents and papers and to inspect any of the offices of the State Commission.
4. The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER - VII

MISCELLANEOUS

31. Matters not subject to jurisdiction of the Commission

The Commission shall not inquire into any matter which is pending before any other Commission duly constituted under any law for the time being in force.

32. Constitution of special investigation teams

Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

33. Protection of action taken in good faith

No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made

thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report paper or proceedings.

34. Members and officers to be public servants

Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

35. Power of Central Government to make rules

1. The Central Government may, by notification, make rules to carry out the provisions of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:
 - a. the salaries and allowances and other terms and other terms and conditions of service of the Members under section (4)(5);
 - b. the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of section (4);
 - c. any other power of a civil court required to be prescribed under clause (f) of sub-section (1) of section 11;
 - d. the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 29; and

e. any other matter which has to be, or may be, prescribed.

3. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. Power to remove difficulties

1. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

2. Every order made under this section shall, as soon as may be after it is made, be laid before each house of Parliament.

37. No-derogatory Orders

Any action taken or order issued under this enactment shall not be in derogation of any punishment that may be imposed under any other enactment for, like offences.



A Brief About the Hotel Sector

It is a very common scene seeing children working in restaurants, cafes and roadside dhabas. These children mostly come from neighbouring villages through labour contractors, who go to villages and usually give advance to the family. Some of them are also self employed. Most of them come from a lower socio-economic background and are seen in the following places :

- i. Small and medium restaurants and sometimes in big ones also.
- ii. Town and city dhabas and in long distance bus and truck routes.
- iii. Mobile tea and snack stalls which do not have sitting arrangements.
- iv. Office canteens, specially run by contractors.
- v. Stalls in the railway station, platform and bus stand.

Working Conditions :

Many of these hotels function till late hours in the night and the roadside dhabas catering mostly to truck drivers and night service buses remain open all through the night. This means that the child working there takes or no rest according to the working hours of his/her workplace.

Also it is seen that it is around 3.00-3.30 p.m. when the crowd of customers is lesser, the children clean the place, wash the big utensils and have the leftover food as lunch. By then it is already time to gear up, start off with the preparations for the evening.

It is only in the late hours at night after cleaning and clearing of the leftovers that the child can have some of the previous day's remaining food and go to bed. Ironically, there is no bed but either the dingy and damp corner of the kitchen or basement or the pavement and the doorstep of the hotel is left for the child to sleep for few hours..... the next day begins very early for the child as he has to start the preparations before the customers come for their breakfast. The child works round the clock cleaning tables, clearing the leftovers, washing the utensils (sometimes bigger than him/her !), helping and preparing

the food, serving the customers, running errands for the customers or employer the list does not end here. Taking the opportunity of him as a child he/she is often bashed for being late to serve, or if the utensils are unclean. Thrashing from the employer for breakage and bullying by elder co-workers also form part of the routine.

There are no fixed minimum wages and often the child gets it after deductions of the breakage, added to are, irregular payments depending solely on the wishes of the employer. Some are also employed without wages in lieu of the food and accommodation. The appointment and dismissals are mostly oral at the whims of the employers' with no rest, leave or holiday for the children. On the contrary, they have to clean and wash the hotel/restaurant if it is closed. There are no social security measures and at times they are even called to work in the employer's house.

Living Conditions and Health Hazard

Studies about the health of child workers have shown a close relationship between malnutrition, lack of sleep and hence fatigue, which leads to a reduced working capacity. The child then has to work longer hours and this becomes a vicious cycle, poverty, malnutrition, lack of education and pressure of work create an extremely stressful situation for the child.

In comparison to catering to the customers, children are preferred more as helpers in cooking and cleaners of utensils and tables. Thus they are exposed to smoke and oil fumes. Excessive heat, damp and dusty working conditions are the breeding grounds for diseases such as asthma, tuberculosis, bronchitis, etc.

They also remain accident prone as they work with sharp instruments (knives and chopping boards): Fatigue also results in accidents. Sadly there is hardly any first-aid facilities available after such mishaps. It is often seen that the co-workers take care of the victim. The children are unable to avail of the lengthy procedures of the government health services as they have to work for long continuous hours and often taking leave on

medical grounds is thought as an alibi by the employer. As the last resort they turn to the roadside quack.

As mentioned earlier the children have food at odd hours, which are often almost stale. Otherwise they have inexpensive food available in the wayside stalls which hardly has any nutritional value. Normal growth during puberty and adolescence get retarded due to the lack of nourishment. This further reduces their work capacity during adulthood. Prolonged mal nourishment also makes the child more prone various infectious and contagious diseases. Illnesses like tuberculosis, anaemia and infections in the eye and skin are commonly found in these children.

The hideous working conditions are self explanatory of the fact that children working in these hotels are exploited. They do not have any proper place to sleep.

Most of these hotels do not provide children any amenities for sanitation. Often they are seen very dirty as most of them do not have any bathing facilities, nor are they provided clothes by the employer.

Mental health and other risk factors

There is no scope for education or training for any skilled or higher job. There is no recreation and often children get conditioned to the deplorable life, resulting in a doomed adulthood. Lack of education and any type of formal training is hindrance towards their upper mobility in the future.

Many of them are victims of sexual abuse mostly from the elder boys and customers. As there is no space and scope for recreation often this is the way to make up for it.... Due to long, unhygienic and hazardous living conditions, their mental health is also adversely affected. Many of the children are made to pimp for the underworld 'thugs' and gangsters. Some of these dhabas and cafes become gambling dens at night. Many of them are also prey to habits like drinking, smoking and taking of drugs.

For many of these children it means a shift from the rural to urban background or from one hotel to the other. New work sites means new faces, new anxieties and newer adjustments to be made. Along with relocation comes the urge to fit in and the need to belong, which happens rarely, as they are either removed from jobs or change it frequently.

Very few studies in this sector is a reason that we are not aware of the exact number of children engaged as hotel workers and it has almost become a 'natural phenomena' with us to see such 'hotel boys' run errands. Also the availability of children as hotel 'boys' is so easy that nobody really bothers about each such Shiva Murugan or Budhan Bhuiyan who has been battered to death. Still, if there is a legal action taken, the owner closes the hotel, bribes the labour department, bribes the local police and opens the same hotel with a different name after some days.



Some Important Sections of the Tamil Nadu Catering Establishment Act 1958 with regard to children and young persons

Sec. 2. Definitions - In this Act, unless the context otherwise requires :

- (1) "Catering Establishment" means a restaurant or canteen attached to or run or managed by, any society registered under any law for the time being in force but does not include a restaurant or canteen attached to, or run or managed by any educational institution;
- (2) "Child" means a person who has not completed (sixteen) years of age ;
- (4) "Employee" means a person wholly or principally employed directly or through any agency whether for wages or not, in or in connection with the business of, any catering establishment, but does not include a member of the employer's family;
- (2) "Restaurant" means any premises in which is carried on the business of the supply of refreshments or meals to the public or a class of the public for consumption of the premises;
- (13-A) "Wages means the basic wages, dearness allowance, the cash equivalent of the meals and tiffin supplied to the employees free of charge and the value of any other amenity or of service or of any concessional supply of food grains or other articles which can be computed in terms of money, but does not include a bonus ;
- (15) "Young person" means a person who has completed (sixteen) years of age but has not completed eighteen years of age.

Sec. 3. Exemptions :

- (1) The provisions of this Act, except section 21 and section 22 shall not apply to any catering establishment in which only members of the employer's family are employed.
- (2) The provisions of sections 7 to 11 shall not apply to the persons occupying positions of management in catering establishments.

Sec. 7 - Daily and weekly hours of work in catering establishments

- (1) No young person shall be required or allowed to work in any catering establishment for more than five hours in any day.
- (2) No other employee shall be required or allowed to work in any catering establishment for more than nine hours in any day or for more than forty-eight hours in any week,

Sec. 17 - Prohibition of employment of children

No child shall be required or allowed to work in any catering establishment.

Sec. 18 - Prohibition of employment of women or young persons during night.

No woman or young person shall be required or allowed to work whether as an employee or otherwise in any catering establishment between the hours of 9 p.m. and 5 a.m.

Sec. 23. Penalties

- (1) Any employer who contravenes any of the provisions of sections 3 A, 4, 5, 6, 7, 9, 10, 11, 11A, 12 and 14A or fails to pay wages or compensation in accordance with any order of the appellate authority, passed under clause (b) of sub-section (2) of section 19 shall, on conviction, be punishable with fine which, for a first offence, shall not be less than fifty rupees or more than one hundred and fifty rupees, for a second offence shall not be less than one hundred and fifty rupees or more than two hundred and fifty rupees and for a third or any subsequent offence shall not be less than two hundred and fifty rupees or with imprisonment which may extend to three months, or with both.
- (2) (a) Any employer who fails to reinstate an employee in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 19 shall, on conviction, be punishable with fine

which, for a first offence, shall not be less than fifty rupees or more than one hundred and fifty rupees or more than two hundred and fifty rupees and for a third or any subsequent offence shall not be less than two hundred and fifty rupees or with imprisonment which may extend to three months, or with both.

- (2a) Any employer who fails to reinstate an employee in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 19 shall, on co-viction, be punishable with fine which may extend to one hundred rupees.
- (b) Any employer, who after having been convicted under clause (a), continues to fail to reinstate an employee in accordance with the order mentioned in that clause shall, on conviction, be punishable for each day after the previous date of conviction, during which he continues so to offend, with fine which may extend to twenty rupees.
- (c) Any court trying an offence punishable under this sub-section may direct that the whole or any part of the fine realised from the accused shall be paid by way of compensation to the person who, in its opinion has been injured by such failure.
- (2a) Whoever fails to produce on demand by an Inspector, any register, record or other document in his custody kept in pursuance of this Act or of any rules made thereunder or conceals or prevents any employee in a catering establishment from appearing before or being examined by an Inspector shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Sec. 26. Onus as to age

- (1) When any question arises under this Act whether any person is under a certain age or not, the burden shall be on the employer concerned to prove that such person is not under such age.
- (2) A declaration by a Government medical officer not below the rank of a Civil Assistant Surgeon that he has personally examined a person employed and believes

him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that person.

A Comment

Hotels and restaurants are notorious for employment of children even at a very young age of 12 years. Despite legislation prohibiting children from employment in these establishments children below 16 years work 12 to 16 hours a day. Sec. 17 of the Tamil Nadu Catering Establishments Act 1958 prohibits employment of all children below 16 years. While young persons (defined as those who have completed 16 years of age but not completed 18 years of age) are permitted under this Act to be employed. Sec. 7 (1) of the Act prohibits any young persons from working more than 5 hours in any day in any catering establishment. Further, Sec. 18 prohibits employment of women or young persons during night that is between 9 p.m. and 5 a.m. The penalty for an offence of employing children is a shameful maximum of Rs. 50/- (after 42 years of the enactment of this law) Sec. 23 (3) whereas the penalty under the Child Labour Act for employing children in the prohibited sector is Rs. 20,000/- or imprisonment together with a penalty of Rs. 20,000/- now directed as an additional penalty by the Supreme Court in 1996, for the same violation. Similarly, for an offence under Sec. 7 (1) with regard to young persons being employed for more than 5 hours, the maximum fine (Sec. 23 (1) for the first conviction is Rs. 150/- and for the conviction for the third time the maximum penalty is Rs. 250/- or with imprisonment which may extend to 3 months or with both.

The Factories Act which does not directly apply to catering establishments prohibits employment of children below 14 years only. The Child Labour (Prohibition and Regulation) Act, 1986 today (as of 1999 amendment) prohibits employment of children below 14 years in 13 occupations and 51 processes. However this prohibition is almost nullified by an exemption proviso which reads as "provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to

any school established by, or receiving assistance or recognition from Government" in many instances prohibited sectors production is so decentralised and carried on by sub-contractors money lenders with the aid of the family enabling employers to escape from prosecution.

However under the Child Labour Act, Catering Establishments do not come within the purview of the prohibited list. Child labour can be allowed and regulated that also only upto 14 years in cases coming within the definition of an establishment. "Establishment includes a shop, commercial establishment, workshop, farm residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment". Thus the department of labour can only proceed under the Child Labour Act only for regulation. There is no age bar for regulating the employment of children. Further, all hotels and restaurants governed by the Catering Establishments Act do not require to be registered under the Factories Act. They do need a licence from a local-government authority and should be registered to enable them to carry on business under the Tamil Nadu Catering Establishments Act.

By implication, it is only Sec. 17 of the Tamil Nadu Catering Establishments Act 1958, which prohibits employment of children below 16 years to work in any catering establishment. Violations of the law attracts only Rs. 50 /- as penalty. Due to this, hotels and restaurants employ children with impunity and find that paying this fine is more profitable. The point being made here is that while the penalty for employing child labour (below 14 years) prohibited from employment under the Child Labour Act is Rs. 40,000/- today including a contribution of Rs. 5000/- by the State, for the Catering Establishment Act, the penalty for employing children (upto 16 years) is a ridiculous Rs. 50/- Since employment of children under the Child Labour Act, working in 'Establishment' which include " a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment" is regulated for children upto 14 years. The penalty provided under Sec. 14 (3) is "simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both".

Amendments Required in the Catering Establishment Act

1. India has acceded to the United Nations Convention on the Rights of the Child which states that the age of the child as per the UNCRC is 18 years. Hence all child labour related laws should define a child as those who have not yet completed 18 years. The Catering Establishments Act must define a child as 18 years. Similar amendments should be made for the Child Labour Act 1986, the Factories Act 1948 and related labour legislations that prohibit child employment.
2. Until this amendment is sought the enforcement authorities under the Catering Establishment Acts must strictly enforce the law that no child below 16 years is employed and that no young person (17-18 years) works more.
3. This implies two major amendments - the procedure for obtaining an age certificate by a medical authority must be dispensed with as it is legally unnecessary and only contributes to corruption and defeating of the intention of this law. We have argued that since the Government of Tamil Nadu has publicly announced that it has a 140% enrolment for children, it must imply that all children have been enrolled in schools (6 years). The age of the child on enrolment in a school is sufficient legal proof of age. Another option is the birth register or other health related registers which records the date of birth. This is sufficient legal proof and doctors certificate is unnecessary. Only this can enable inspectors to obtain convictions and engage in a process of investigation and prosecution to achieve the objective of the Act.
4. Secondly, the entire section on penalties must be strengthened. The least penalty for employment of children below 16 years and employment of young persons beyond 5 hours work in a day (10 a.m. to 5 p.m) For the first conviction the penalty should be a minimum of Rs. 30,000/- and imprisonment for 2 year. No young persons will be permitted to work before 10 a.m. or after 5 p.m. All young persons will work for a maximum of 30 hours a week. All young persons shall be paid the

same wages as an adult who works for 8 hours/9 hours. Similarly all other provisions regarding adult workers, wages, hours of work, working conditions etc., must be reviewed and penalties for these violations enhanced to a minimum of Rs. 30,000/- fine and two year imprisonment.

5. Exemption provided under Sec. 3 should be deleted.

6. Similar to the Child Labour Act 1986, the procedure for (Sec. 24) under the Catering Establishments Act for enforcement of penalties must include "any person" may file a complaint of the commission of an offence in any court of competent jurisdiction.

7. The definition of Inspector under the Child Labour Act vide the Government of Tamil Nadu Notification (Rules) dated 19th July 1995 and G. O. M. S. No. 43 Labour and Employment, dated the 31st March 1997 must be also incorporated under the Catering Establishments Act. This has thereby designated 16 categories of government department / employees to act as Inspectors. Similarly the Catering Establishments Act sections on authorities of enforcement must be widened to involve various other government departments.

8. Further, any complaint from a trade union, registered organisation, or any person to any such inspector must be treated as sufficient for taking steps for investigation and prosecution.

7. Why children should not go for employment

- Child labour prevents the emergence of a social consensus that children have rights and the right to holistic childhood development.

- Development policies of the government are contributing to the increase in child labour. While poverty is a reason for child labour, continuance of child labour perpetuates poverty, exploitation and inequalities. It is a fact that the number of

children out of schools and in some forms of employment is increasing. The conditions of children is worsening. Child Labour continues despite all efforts because state policies, market forces and employers continue to push/attract children to the labour market and because the continuance of poverty is beneficial to the political class and the employing class.

- Child labour is exploitation of poverty for profits. This perpetuates child labour and violates children's rights.

- Child labour is exploitation of wage labour. It is super exploitation and depresses adult wages.

- It creates increased profits for employers, since employers decide to use children as cheap labour. It is profitable to exploit poverty and keep families poor.

- Children and young persons in employment can be easily coerced by their employers; their association/unionsing prevented and they can be even beaten and threatened. They are easily denied their right to participation in decision making, collective bargaining, organising strikes and other protest.

- The belief that children in employment enhances family income is false. Examined on a cost-benefit scale the contribution of children to family income from their employment is marginal, when compared to loss of education, early adulthood, poorer wages for adults and damage to children's health.

- Children in employment are denied their right to leisure, rest, entertainment, games and fun.

- The belief by employers that children in employment become responsible workers and that they learn more through working than in school is false and not in the best interests of children. Yes the school system needs to be radically restructured in terms of learning, skills and knowledge and free quality, compulsory school education must be made a reality for all children.



Death of a Child Worker

Budhan Bhuiyan, a boy of 11 years, working in a hotel was battered ruthlessly by his employer. He finally succumbed to the injuries on February 12, 2000, in Palamu District of Bihar.

Family background of the deceased :

Budhan and his family members resided in a slum of Daltonganj, Bihar. The family consisted of Budhan (11 years)

Father : Late Suryadev Bhuiyan

Mother : Enwaria Devi (45 Years)

Sisters : Lalita Kumari (17 Years), Faguni Kumari (4 Years)

Grandmother : Rajo Bhuiyan (70 Years)

Budhan's father had expired three years back and after that, his mother got married to Sukan Bhuiyan.

Sukan Bhuiyan is a casual labourer while his wife and elder daughter are engaged in rag picking and selling them. The daily income of the family is around Rs. 100/-. The family does not have any land or even a house. Also they have not taken any loan from the bank. Budhan, 11 years was working in Hotel Badal to give economical support to his family. His daily wage was Rs. 20/- He was also studying in a school run by 'Sampurna Gran Vikas Kendra', a member organization of CACL.

How it all happened ?

As per the statement given by Budhan's mother, her son was not getting salary (Rs. 20/- day) since the past five months and therefore had left the job. But after some time Budhan's employer (Ranjit Ram, owner of the hotel) and his family members called him to resume work. This incident happened on February 7, 2000. Nobody was there at home when Budhan was called for. Later when his family members came back and enquired the neighbours, they were told that he had been taken to Badal Hotel.

The fateful day : February 10, 2000

Though Budhan had gone hoping to get his pending payment, destiny had something

else in store for him. He was forcefully made to drink liquor for four days continuously and after that the employer's family members (5) battered him ruthlessly with iron rods. He was not given anything to eat or drink for four days. After this, they left Budhan in front of the Badal hotel by a rickshaw and fled from there.

The boy's legs were broken and he was badly injured. Later his mother was informed by some people around that Budhan could not get up. He told his mother that he was beaten up by his employer and his family members in the chest, stomach, legs and shoulder.

Thereafter Budhan's family members filed a case in Daltonganj Sadar Police Station and rushed him to the Sadar Hospital. Till then no expenses for the treatment was borne by Ranjit Ram, the owner of the hotel.

After requisite treatment, Ranjit Ram promised to pay for the expenses of the food and treatment and took the boy to his house. But the wounds inflicted were too severe for the boy bear. Budhan succumbed to the injuries and finally died on February 12, 2000.

Budhan's parents were informed, who then went to the police. After this the body of the deceased went for post-mortem and on the same day the last rites of Budhan Bhuiyan was performed.

CACL's (South Bihar Unit) Intervention

No action was taken by the police till the next two days. In protest to the shameful activity, on February 14, 2000, CACL members undertook a demonstration highlighting this incident. On the same day a memorandum was given to the Superintendent of Police, Palamau, demanding for adequate punishment to the guilty and compensation to the family of the deceased.

The labour inspector came on February 16 and took detailed information from Budhan's family members. He also assured that he would file a case and see to it that the bereaved family

gets adequate compensation from the Social Security Fund.

The South Bihar CACL Unit has been following up the case since then and as per their report, till April 15, 2000 no action at the government level had been taken.

For the case of Budhan Bhuiyan we demand:

- a. Adequate compensation to the family of Budhan Bhuiyan (the deceased) which was assured by the labour inspector, but things are yet to take shape.
- b. Punishment of the accused (the employer and his family members) who were involved in this barbaric activity and are scot free till date.
- c. Inclusion of the hotel sector (including restaurants and dhabas) in the hazardous schedule of the CLPRA.

We appeal for this legislative amendment as the case of Budhan Bhuiyan is not an

isolated instance of violence inflicted to a child working in the hotel. There have been many such, cases which have been hushed up or unreported. A major reason of this could be the that this sector does not find its mention in the Child Labour Prohibition and Regulation Act, 1986 and therefore child labour in this occupation need only to regulate. The Shops and Establishments Act prohibits employment of children below 12 years, as it defines a child to be a person below the age of 12 years. Therefore according to the law, employing children between the age of 12-14 years in a hotel/restaurant is legal.

The risk factors due to work with fire, sharp knives, etc., deplorable working and living conditions, unavailability of amenities of sanitation, long hours of work, inadequate rest, sexual exploitation from customers and co-workers and no scope of education are reasons enough to include this sector in the hazardous schedule of the CLPRA.



NATIONAL CHILD LABOUR PROJECTS - STUDY UNDERTAKEN BY THE CACL

- NCLP is the flagship programme of the Central Government to rehabilitate child labourers, and is operational in 131 districts in India. Being a project of nearly 1000 crores of budgetary allocation (1994-1999) the NCLP assumes much significance. In this light CACL Karnataka commissioned (in 1998) a pilot study of three districts each in AP, Karnataka and Tamil Nadu. The scope of the study was to identify.
- The successful and not so successful NCLP projects operations in these states, to analyse the factors that contributes to the success/failure of these projects.
- The findings of the study would be used as data for the CACL to lobby for review and revamping the NCLP, with policy makers in the Central Government.

THE FINDINGS AND CONCLUSIONS:

So far the problem has been defined and discussed only on paper. Structures have been created and policies have been drawn at the top level without giving attention to logistics available and needed for the implementation. Various laws have been created and judgements passed without properly strengthening enforcement structure.

The surveys to identify the child labour that are in the hazardous occupations have been a direct mockery to the orders of Supreme Court. Its directives to appoint more inspectors to identify and rehabilitate child labourers in particular sectors has remained on paper.

The glaring loop holes in existing child labour law is reflected in the ambiguity they have created in defining who's a child labourer and what is hazardous job.

This has enabled complete laxity on the part of the enforcement authority and provided enough flexibility for the employers to escape the nets of law. It has also given opportunity for the implementing agency of NCLP to identify any one as child labourer and make a

mockery of the programme.

Notwithstanding the noble intentions of our constitution makers, law makers and the executive at the top, the basic spirit to recognise child labour as the national evil has failed to develop at grass root level (in this case the district) it is in this grim situation we have to evaluate the performance of NCLP society and the NGOs.

NCLP SOCIETY

Legally all the societies have started functioning from 1995 itself under the chairmanship of concerned District Collectors. But performance wise we see a lot of difference between NCLPs of same state and also NCLPs in different states. For example in Karnataka, 9 NCLP societies are in existence since 1995. But only 1 NCLP society was able to start special schools from 1996 onwards. Even it stopped its special schools in October 97. Under some pretext, none of the other NCLPs could do that much also.

So far no proper survey has been done to identify the exact number of child labourers in any of these districts.

None of the officers' in-charge of implementing the programme at district level has paid serious attention to this problem either in Karnataka or in Andhra Pradesh. Only in Tamil Nadu some work has been done by the NCLP society in this direction.

The Executive Committee of the NCLP societies is full of Govt. officials and no representation has been given to either NGO or peoples' representatives in Andhra Pradesh or Karnataka. Even if it is there, it is only a nominal in Andhra Pradesh and Karnataka.

In Tamil Nadu the picture is slightly better with 3 NGOs in the EC of NCLP society. In NCLPs of Karnataka and Andhra Pradesh, they are merely called as DCLP societies without any identification of its own as in case of Tamil Nadu, (KOVAI CLASS, Coimbatore and CHEERS in Trichy). None of the NCLP societies in Andhra Pradesh and Karnataka are

able to take initiatives and design various activities to promote mass awareness, to parents groups and to attract children to the programmes.

The NCLP societies in Tamil Nadu have drawn up a number of multifarious activities to keep in view of problem. They are also able to mobilise extraneous funds from local donors, UNICEF and so on.

None of the NCLP societies in Karnataka and Andhra Pradesh have a project director on regular and long term basis. Mostly it is on adhoc in-charge arrangement and officers changing frequently according to the whims and fancies of Deputy Collectors. This has resulted in the present state of the society. But in Tamil Nadu, the project directors are appointed on regular basis for a longer term.

Some of the NCLP societies have not conducted Executive Committee meeting since their inception. So the NCLP needs strengthening. In most of the states it is the weakest link and it needs strengthening.

The NCLP society has to evolve long term perspectives and action plans in a systematic way. It needs a professional outlook in its approach to the task.

Most of the NGOs feel the Deputy Commissioner or any other Govt. employee placed in charge of the society cannot give that professional outlook of long term commitment needed for the success of the project.

Its role in enforcement of law and in bringing about convergence of various programme is utterly absent in most of the NCLPs in Andhra Pradesh and Karnataka. However, the NCLP societies in Coimbatore and Trichy have made a way in this direction also.

NGOs INVOLVED IN NCLP:

Many educational institutions, rural development organisations and small groups working with the women and children have been involved in this project. But no systematic inventory of NGOs has been done by the Society before selecting the NGOs in Andhra Pradesh, Tamil Nadu or Karnataka.

No definite guidelines or methodology have been evolved by any NCLP society for proper identification, selection or monitoring the works of NGOs. So the NGOs who have been lucky to gain entry in to the programme enjoy maximum freedom in implementation of the programme.

The NGO's relationship with NCLP society has been cordial except with regard to release of funds where they face lot of problems. Most of the NGOs are committed to the cause. They sincerely believe the child labour should be eradicated. But most of them have genuine doubts whether NCLP alone can achieve this goal.

They feel the funds, coverage and the duration of this project should be increased many fold to achieve the desired goal. They believe it is a step in the right direction but a very small step indeed.

Many NGOs lack expertise in handling this programme or in running special schools. Therefore they are not able to evolve innovative programmes or activities to achieve the desired results.

Most of them depend upon the grants from the NCLP to run the programme. They lack extra funds needed to take up the extra programmes either at special school level or at the community level.

They have failed to integrate their other developmental programmes with this programme.

NGOs assistance to the overall economic development of the family is negligible as far as these families are concerned.

In case of Coimbatore and Nalgonda only, the families of the child labour also got the benefits under various Govt. Schemes. Interestingly, 18 out of 99 families in Nalgonda and 20 out of 100 families in Coimbatore have got some benefits under various Govt. Schemes (Housing in Nalgonda while multiple benefits in Coimbatore). In all the other districts the percentage of families that have obtained govt. assistance are very less. (3% to 5%).

But the impact of the programme on the children and the parents has been impressive

in almost all districts.

The families and the children appreciate the role of NGOs in implementing the programme. Only in Bijapur district a considerable number of families have given negative opinion about the NGOs involved in the programme.

Many NGOs have done survey on their own and have conducted mass awareness campaign without getting funds from NCLP society for the programmes. But it is also true that many NGOs lack funds to do many innovative things in this direction.

So, NCLP should have the flexibility and freedom to grant extra funds for any innovative programmes that an NGO might propose to take up.

NCLP, CHILD LABOURER AND FAMILY :

A considerable number of children have dropped out from the regular schools due to lack of interest in the studies and also due to family compulsions.

Their attending to these special schools has changed their outlook to a considerable extent. A large majority of the children who have attended the special school now want to continue their education. That means their interest in learning and achieving academic qualifications has intensified as a result of their attending the special schools.

Their parents also desire that their children achieve some formal schooling at least up to the matriculation level (SSLC). This attitudinal change in both children and the parents can be attributed to the success of this programme and role of NGOs in bringing about this attitudinal change the children and their parents.

Most of the parents have observed some qualitative changes in the outlook of their children and they attribute the success partially to the special schools.

Most of the children who were child labourers before they joined the programme, now do not want to work. A considerable number of them want to be self-employed. This

again is attributed to the vocational training given in the special school.

The parents' expectations has raised considerably because of the changes they observed in these children.

A considerable number of them now want their children to pursue higher studies and to achieve better status in their lives. Nearly a third of the parents wish that their children joined some government service and a few of them to enter professional service like lawyers, teachers and doctors.

This attitudinal change is a definite achievement of NCLP programme.

There is a behavioral difference between the children going to the formal schools and the children going to special schools. Most of these children have shared their school experiences with the parents. This seldom happens with the children going to formal schools. As a result, most of the parents are knowledgeable about what is happening in special schools and how their children have progressed. Thus there is an organic link between the special schools and the parents, which is seldom found in formal schools run by the Govt.

As discussed earlier NCLP Society is the ring pin centred around which the NCLP objectives are to be achieved. But they are the weakest organs in both Karnataka and Andhra Pradesh.

If they are to achieve their objectives they have to move in the direction that 'KOVAI CLASS' of Coimbatore and 'CHEERS' of Trichy are moving. The first thing that is needed is to develop a pragmatic and realistic definition of 'child labour'. Unless a generally acceptable definition of 'child labour' is not achieved all the goals and objectives of NCLP become mere rhetoric, full of sound and fury signifying nothing.

The performance of the government the DCLP societies and the NGOs involved raises a basic question in this exercise 'who are the real losers.' It is the government which is investing a considerable amount on this

programme, or the DCLP society which is unable to utilise the grants; given to it to achieve specific tasks, of the NGO, who have come under the umbrella to eradicate child labour or the real children who have lost their future and living in constant fear of insecurity and threat? Because of failure of law and law enforcement authorities and NGOs and CACL activists.

We have to note that in the samples we have got, there is no indication to suggest serious attempts have been made to achieve the NCLP objectives in both Karnataka and Andhra. Even in Tamil Nadu in spite of best efforts that is being made by the societies, there is no indication that real needy children working in hazardous sectors have been covered under the programme.

This raises another question, whether NCLP needs to continue this project, in spite of clear indication that nothing much has been achieved.

Based on the data available, it is sadly noted that the primary objectives for which district level societies have been formed have not been achieved in either Andhra or Karnataka. Only those who are in the periphery are covered. That is what exactly is being taking place. Children from non-hazardous, peripheral sectors are being identified and served. Such being the case is there a need to continue this programme in its present state of working. We feel there is a strong need to revamp the whole programme, to make it more child centred, with much more clarity. Today people's representatives are not part of it. This is highly bureaucratized. There are no criteria to identify service areas and service groups. NGOs no doubt have gained much experience with working children. But they are hardly successful in reaching out the real needy children. Both the DCLP societies and the NGOs need to focus more sharply on the target, priorities sectors in their region and build up-tempo to fight against child labour.



ANNEXURE REFERRED TO IN STATEMENT TO
RAJYA SABHA STARRED QUESTION NO. 185 FOR 27.3.95

Circular on "Identification, Release and Rehabilitation of Child Labour"

SUMMARY OF RECOMMENDATIONS

1. Prohibition of employment of children under 14 years of age is the essence of various legislative provisions. This central objective has been reinforced further in Child Labour (Prohibition and Regulation) Act, 1986 according to which children to which children under 14 years of age are not permitted to work in certain hazardous occupations as also in occupations defined and notified as "Hazardous Process" and "dangerous operation" under the Factories Act, 1948.
2. (A survey should be conducted under the overall supervision of the District Magistrate in a time bound manner), to identify child labour, the nature of vocations and occupations in which they are employed and also the families to which they belong.
3. Inspections and investigations must be intensified.
4. The district, block and village level officials belonging to Revenue Department and other Executive Magistrates should also be authorised to conduct inspections and empowered to enforce the provisions under various laws.
5. The employment of child labour should be made a cognisable offence under the relevant acts and Executive Magistrates should be specially empowered to dispose the cases pertaining to employment of child labour in a summary manner under all these Acts.
6. Launching of prosecutions on employers of child labour should be a precondition for taking up of rehabilitation of the concerned children and the economic rehabilitation of their families.
7. A Standing Committee of officers under the Chairmanship of the District Magistrate in districts having child labour problem shall periodically (atleast once in a quarter) review the problem of child labour in the district, organise the survey and define the responsibility of the concerned officers in regard to supervisions, inspection and strict enforcement of the legislative provisions. This Committee would be in overall charge of identification, release and rehabilitation of child labour and co-ordination of all programmes relevant to education, economic rehabilitation and convergence of programmes to families of child labour.
8. To ensure that the child is not an economic burden to the family, there will be a need for schools, hostels and other institutions wherein these children could be admitted and their requirement of food, clothing, books, medical care, etc. could be met.
9. Only such schools which can provide the children with boarding and lodging facilities, support for their education and solicitude should be selected for this purpose.
10. Various Central and State Sector Programme like National Child Labour Project, District Primary Education Project, Non-formal Education, Social Welfare Hostels, Ashram schools etc., should be geared to meet the requirements of educational and psychological needs of the child labourers.
11. Special support will be provided by the "Labour Ministry" for this type of educational and psychological rehabilitation of the child labourers in the districts with concentration of child labour by expanding their activities under the programme of National Child Labour Project.
12. The best method of eliminating child labour is to ensure that these families are enabled to have access to adequate

opportunities for livelihood and to improve the quality of their life. In order to provide sustained livelihood to such families, the Ministry of Rural Development have agreed to provide to these families on priority basis the following benefits :

- i) Assured employment for two adult members in the family for 100 days each in a year under Jawahar Rozgar Yojana (JRY).
 - ii) In the matter of allotment of house sites and allotment of Indira Awaas Yojana (IAY) houses, the child labour's family will be accorded a very high priority alongwith SCs/STs and families of freed bonded labourers.
 - iii) In addition to the above mentioned benefits, these families will be provided assistance under IRDP as per the provisions of the revised IRDP manual with adequate investment for self-employment ventures in land based or related traditional occupations. This is to enable these families to earn a minimum incremental income of Rs. 5,000/- to Rs. 7,000/- per year. Necessary linkages like training for skill improvement, supply of raw material and marketing facilities for products shall be made available to all the beneficiaries under IRDP by DRDA.
13. There are several Government Programmes in the social sector Ministries

/Departments of Women and Child Developments. Health and Family Welfare. Social Welfare and Education, all of which have relevance to the rehabilitation of child labour and prevention of recurrence of child labour phenomenon. The concerned departmental officials shall inform this standing committee of suitable projects and surveys relevant to the elimination of child labour. A Special Standing Committee of the Zilla Parishads should be entrusted with the responsibility to co-ordinate all these programmes with primary objectives of eliminating child labour.

14. In order to ensure that various programmes relating to elimination of child labour are implemented without any delay at the district level, funds from Government of India and the State Governments concerned with these programmes may be made available directly to the Zilla Parishads.
15. The Standing Committee of Zilla Parishad can co-ordinate and take up the formulation of co-ordinated plans and the schemes for the benefit of child labourers.
16. The Standing Committee of officials refered to under para 7 above shall submit a periodical review of the child labour situation in the district to the Standing Committee of Zilla Parishad.



EDUCATION AND SOCIAL CHANGE

Summary of the Key-note Address

by Professor Krishna Kumar

Our ability to use and promote education as an instrument of social change depends on how well we understand education - both as concept and as system. The relationship between education and society is neither simple nor direct. Society uses education to preserve its structure, forcing education to acquire a reproductive character. At the same time, education imparts to individuals and communities a sense of confidence and freedom, and these exercise a pressure for change in the social structure.

In the Indian context, the transformative value of education has been recognized by the state, but the entrenched reproductive character of the system of education has remained intact. The implications of this contradictory situation can be witnessed in any sphere of civic and economic life. The spread of education has enabled many erstwhile oppressed groups to assert their right to dignity and justice. Yet, the system of education has remained indifferent to the needs of the poor. This is

why there is a heavy rate of failure and drop-out.

We can probe this contradictory picture more satisfactorily if we recognize the importance of other transformation forces. Economic and cultural forces make a vital contribution to the functioning of education, especially to its capacity to exercise pressure for change in social relations. Currently popular economic policies favour the richer sections of society. In the cultural sphere too, we notice a regressive trend, heading towards the continuation of caste and gender hegemonies. In a society such as ours, where the deprived form the majority, these trends can only prove temporary, but they can seriously impede social transformation by exasperating tensions and violence. Political pressure to re-orient socio-economic policies towards the rural masses and the urban poor can make a vital difference to the capacity of education for accomplishing social change.



National Resources Centre for Value Education

The cultural diversity of India requires that a knowledge of the basic tenets of all religions be provided to school-going children to help them develop a secular attitude and to learn to co-exist. In cognizance of this the Government of India's recent policy statement on value-based education has been detailed in the 81st report of the Parliamentary Standing Committee on Human Resource Development, submitted to the Rajya Sabha and also laid on the table of the Lok Sabha (1999). The report lays stress on the universal human values of truth, righteous conduct, peace, love, and non-violence. As a concrete step to provide a lead role towards realizing the objectives of value-based education at the school stage, the National Resource Centre for Value Education (NRCVE) has been set up in the National Council of Educational Research and Training. The Centre was inaugurated on 14 September 2000 by Shri M. K. Kaw, Education Secretary to the Government of India.

Functions of the Resource Centre

The NRCVE has adopted a multi-pronged strategy to realize its goals and functions through the joint venture of different constituents of the NCERT including the Regional Institutes of Education (RIEs), Central Institute of Educational Technology (CIET) and Pandit Sunderlal Sharma Central Institute of Vocational Education (PSSCIVE). The major functions of the Centre are to

- develop plans, programmes, activities and generate database for value-orientation of school education ;
- design strategies for implementing the plans and programmes ;
- develop strategies for implementing the plans and programmes ;
- develop education materials and other aids;
- document and disseminate information ;
- provide extension and consultancy services;

- serve as a treasure house-cum-reference library of education materials.

Activities

The major activities of the Centre are :

A reference library has been set up with provision for continuous enrichment. A wide variety of literature related to values, values in education, Indian concept of values, cultural values, character education, ideologies of national heroes, self discipline, etc., has been collected. Literature on values enshrined in different religions like Hinduism, Islam, Sikhism, Christianity, Buddhism, Jainism, etc., has also been procured. The teachings of Sri Sathya Sai Baba, and the philosophy and ideology of Chinmaya Mission, Ramakrishna Mission, Brahma Kumaris, Sadhu Vaswani Mission, Bahai, etc., find their due place. There is emphasis on acquiring literature for children. Some of the literature relates to teaching of values through religious texts and picture stories. Material produced by different institutions and NGO's working in the area of value education also forms part of the Centre's ever-growing collection.

- The Centre has started networking with the pioneering institutions and other NGOs within the country and abroad. Collaboration with these institutions will be strengthened based on previous experience and outcomes.
- Another important activity underway is preparation of annotated bibliography of books, articles, researches, audio-video materials, training packages, reports, etc., available all over the country. This activity will continue on a regular basis with required intervals.
- Journal of Value Education, Lecture Series on Value Education and some periodical activities like national meets and seminars will serve as potent means of reaching out to the beneficiaries.

Other significant activities which are in progress in the Centre include:

- Developing a framework on Value Education in schools.
- Analysis and review of existing school textbooks.
- Study of existing programmes/systems on Value Education.
- Conceptualizing some important values such as caring, excellence, spiritually, etc.,
- Preparation of supplementary reading materials for children.
- Developing experiential activities to promote values related to national integration and cultural harmony.
- Reorientation of teacher education and counsellor education including the development of required training materials.

- Enriching non-formal education and alternative schooling with value-based components.
- Media mobilization for mass education and training and preparation of required resource materials, etc.
- Developing strategies for assessment of value component in the school system.

Information about the activities of the NRCVE has been put on the NCERT website. National level organizations working in the area of value education and bibliography on value education will be on line in near future.

At present the NRCVE could be visited at <http://ncert.nic.in>

As can be made out, all the activities and programmes underway are indicative of a well articulated movement with a futuristic orientation in the field of value education.



PM to Head National Mission of Elementary Education

New Delhi : December 21, 2000

Agrahayana 30, 1922

The Prime Minister will head the National Mission of Sarva Shiksha Abhiyan - a programme for universalisation of elementary education. This was announced by the Human Resource Development Minister Dr. Murli Manohar Joshi at the Consultative Committee Meeting of MPs here today. The Human Resource Development Minister will be the Vice-Chairman and the members would include MPs, State Education Ministers, Educationists, teachers and NGOs. Necessary notification is being issued shortly Dr. Joshi said. Besides State - level missions would also be set up under the Chairmanship of Chief Minister or the State Education Minister. The HRD Minister said that monitoring at all levels from centre down to the villages will form an integral part of the programme.

The massive programme first of its kind aims at enrolment of all children in the age group of 6-14 by the year 2003 completion of 5 years of primary schooling by 2007 and achievement of universalisation of elementary education by 2010. At present 79 % children in the 6-14 age group are attending schools. It is estimated that six crore children mostly girls remain out of school. The scheme is estimated to cost over a 10 year period an additional amount of Rs. 60,000 crore from the budget of the Centre and State level Departments. The Centre is providing over Rs. 3000 crore per annum. Dr Joshi said that all efforts would be made to provide adequate resources for the Abhiyan based on the District Elementary Education Plans in partnership with the States.

The programme envisages one teacher for every 40 students and at least 2 teachers in a school and one school within a kilometre of every habitation. Provision has been made for

supply of free text-books to all girls and SC & ST children. Upto Rs. 15 lakh would be provided for each innovative project for girls education and upto Rs. 50 lakh for each district. For the integration of disabled children an amount upto Rs. 1200 per child could be given under the programme.

The preparatory activities under the Abhiyan have already been initiated in the current financial year. The response from the States is overwhelming and proposals for the preparatory activities have also been received from various States and Union Territories. The focus is on low female literacy districts. Detailed micro-planning and school mapping with household surveys etc are some specific areas for which support has been extended to districts in the first phase.

Participating in the discussion Members welcomed the programme whole-heartedly. They complimented the Minister for initiating the much needed programme and also wanted its implementation carefully monitored. They suggested free supply of text-books to poor students and measures to check drop-out. They stressed on orientation schemes for teachers and imparting of teaching in local language. That the programme is success and emphasised the need for nutritional support to poor children. He also urged the religious and charitable institutions to come forward and supplement Government efforts in this task.

The following Members participated in the meeting : Smt. Krishna Bose, Shri Y. G. Mahajan, Dr. Mrs. V. Rajeswaramma, Shri Savshibhai Makwana, Shri H.S. Mahale, Shri Ananta Nayak, Shri Rajnath Singh 'Surya', Dr. A. K. Patel, Smt. Kumkum Rai, Smt. Geetha Vanga, Shri Faguni Ram and Shri V. K. Sorake.



Business Line

Child labour : The Union labour Minister, Dr. Satyanarayan Jatiya, told Mr. Ashok N. Mohol that the National Child Labour Projects (NGLP), designed for the rehabilitation of child labourers through non-formal education, vocational training, nutrition, health care and stipend, are in vogue in 10 child labour endemic States covering 1.8 lakh children.

The Centre provides funds for these projects directly to the child project societies at the district level. He said the NCLPs have been evaluated by five institutes of Social Science Research in Uttar Pradesh, Tamil Nadu, Andra Pradesh, Orissa and Rajasthan, and by inter-ministerial teams of the Women and Child Development and Planning Commission.

He said the evaluation reports suggest that the magnitude of the child labour could be considerably reduced through effective implementation of the rehabilitation measures made by the NCLPs.

THE HINDU

18th February, 2000

Accord with ILO to extend child labour elimination programme

By Soma Basu

New Delhi, Feb. 17. Outweighed by diplomacy, the Director-General of International Labour Organization (ILO), Mr. Juan Somavia, today steered clear of stating his organization's position on the vital issue of linking labour standards with trade. But he positively asserted his drive to "humanise" the present model of globalisation, as he began his five-day India visit from here.

"India has been central both to my thinking and my world of action because it is a country of the millions who aspire for a better life and decent job" — was his tribute to the country replete with socioeconomic inequities. Yet, he found optimism and responsive authorities wanting to "move forward".

There was no dearth of compliments at any function for the Government which, Mr. Somavia gladly acknowledged, had always played a key role in the ILO for tackling together labour-related issues and particularly that of child labour.

Coming straight from the UNCTAD meeting in Bangkok where he flayed the Western concept of "prescriptive globalisation" and reiterated his pet theory of making markets work for everybody so that decent work and not just employment could form the basis of a new global order, Mr. Somavia's call on the Union Finance Minister, Mr. Yashwant Sinha, tonight was significant.

"All labour issues discussed are inter-linked and of both national and global importance", he said, promising to share details later and not on a "piecemeal basis now".

Earlier during his meeting with the Union Labour Minister, Dr. Satyanarayan Jatiya, he witnessed the signing of Memorandum of Understanding between the ILO and the Government for extending ILO's: International Programme for Elimination of Child Labour (IPEC) by another two years from January 1, 2000.

India was the first country to sign the IPEC in May 1992 and during the past eight years, 150 ILO projects to eliminate child labour were operationalised. Agreeing that child labour was a complex issue linked to development and that specificities of societies also differed, Mr. Somavia said, it was, however, a "moral breakthrough to unite the world - irrespective of a country's development status - for an urgent ban on child labour".

Since the adoption of a new international human rights instrument on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in June last year, nine countries have ratified it so far and another two dozen countries are likely to do so soon. Happy that India is going to be one of them,

Mr. Somavia stressed on the need for contributions from developed countries and converting the cause of elimination of child labour into a global cause.

"The principle enemies of child labour are population and moral indifference linked to underdevelopment. It is within our power to bring an end to the evil", he said, content that the process had already been initiated with Governments now "moving from fragmented actions to a more comprehensive integrated approach.

Committing ILO's continued support to the Government, Mr. Somavia said, there was no one solution to problems. "We have to use a co-operative and promotional approach involving broad partnerships in every sector in every country," he added.

During the day, the ILO chief also released the Hindi edition of a manual on child labour and inaugurated a seminar on "strategic approaches to job creation in the urban informal sector": He said, the subject ably demonstrated the relationship between India and the ILO because both always advocated a "positive attitude towards promotion of the informal sector, which is a prominent feature of developing, transition and developed economies".

"With a growing informal economy, the informal sector does not become a panacea. But it has a great potential if we focus our energies on the objective of turning drudgery and insecurity into decent work in that sector", he said, revealing a bit from his public lecture on "decent work in the global economy".



Sarva Shiksha Abhiyan Cleared by Cabinet

The Times of India News Service

NEW DELHI : The Union Cabinet on Thursday cleared the "Sarva Shiksha Abhiyan", the government's ambitious integrated programme to achieve universal education. But the enabling Constitution Amendment Bill, which seeks to make education fundamental right for those between six and 14 years, is still waiting for the approval of the Group of Ministers headed by home minister.

The major thrust of the SSA will be to ensure that all children between the ages of six and 14 are in school, education guarantee centres or bridge courses by 2003 ; complete five years of primary education by 2007, and

eight years of schooling by 2010. The emphasis will be on districts with low female literacy among scheduled castes and tribes. The SSA will be community based and village education plans will be prepared in consultation with panchayati raj institutions. Pre-project activities connected with the SSA are already on stream in 10 states.

The SSA envisages a convergence of the plethora of schemes in the primary school sector, a shift from a supply - driven to a demand - driven system ; and decentralisation down to the district level.



Tibetans held for Smuggling Bihari Boys

BANGALORE : The railway police on Tuesday arrested seven Tibetan refugees on charges of illegally transporting nine Bihari boys, in the 10-14 age group, to be employed as labourers in Karnataka.

The children had boarded a train in Patna on Saturday and reached Bangalore via Chennai. Volunteers of BOSCO (Bangalore Oniyavara Seva Okkuta), an NGO working with street children, noticed the boys waiting on the platform for a Mysore bound train and tipped off the police.

The children are Raju (10), son of Angumanch; Donej (10), son of Kalisar ; Mithum (13), son of Biswas, Sikandar (12), son of Jerogeshwar ; Anil (14), son of Raghunandan; Harimonji (10), son of Jagadomonji ; Thilasar (10), son of Manisa; Arjun (10), son of Baisaki; and Vijay (10), son of Vileshar.

The children are from Shironja, Tali, Silonga, Rangadhar, Chabmorja, Garamtai and Bachgaramtan villages in Bihar's Bodh Gaya district.

After spotting the children during the annual pilgrimage to Bodh Gaya, the Tibetans reportedly paid their parents about Rs. 1,500 each to bring them to Karnataka for menial work.

The Tibetans - Tsering Dhundup (37), Pasang Dhundup (22), Dorje Teshahi (21), Rinchen Topgyal (29), Karmadulma Sonam (43), Dolma Chutten (50), and Pema Tsewang (38), - said the parents gave away their children after receiving the money.

The police say the Tibetans brought the children to Karnataka with the promise of

employing them in fields ; in reality, they were forced to do household chores.

Denying this, the Tibetans said they brought the children here "out of generosity" and to teach them how to knit sweaters in refugee camps near Kollegal. They even gave the boys elementary education, they claimed.

The police said Tibetans have been bringing children from Bihar to their colonies in Karnataka for many years. "They keep them for a few years and later send them back. In many instances, the children prefer to remain in Kollegal."

After the railway police handed over the accused and the children to the City Police, Commissioner L. Revannasiddaiah told reporters that " this racket" has been going on for quite some time now.

Documents with the Tibetans showed that around 100 boys had been transported from Bodh Gaya to Kollegal.

Mr. Revannasiddaiah, however, said the Bihar police and Government will be contacted for speedy transport of the children back home. A police team will visit the villages in Kollegal to take stock of the situation.

Last year, the airport police had prevented Bangladeshi child-runners from trafficking impoverished children from their country via Bangalore to the Gulf to be used as riders in camel races.

For these children, freedom turned out to be a cruel joke as they were all lodged in the Central Jail for close to year.



CHILDREN AS SERVANTS

THE GOVERNMENT'S UNWILLINGNESS to amend the Central Civil Services (conduct) Rules to prohibit the employment of children as domestic servants is perhaps the worst example of the deep-seated vested interest on the highest rungs of our society. It has been more than two years since the National Human Rights Commission (NHRC) mooted an amendment to the rules to declare the employment of children below 14 years as domestic servants a misconduct attracting a major penalty. But the Union Ministry of Personnel, Public Grievances and Pensions has responded with a mere office memorandum to Government servants "requesting" them not to employ children as household labourers. The Centre's reservations are all the more glaring considering that the Governments of Tamil Nadu, Tripura, Maharashtra, West Bengal and Karnataka have already accepted the recommendations of the Commission and issued necessary notifications. Those of Mizoram, Himachal Pradesh, Haryana, Gujarat and Goa have promised to follow suit as and when the Centre shows the lead.

In a sense, the Government's attitude has sufficient legal backing, albeit tacit, in more than one respect. Whereas the Child Labour (Prohibition and Regulation) Act of 1987 applies only to children under 14, employment of children as domestic labour does not figure in the list of occupations and processes prohibited by the Act. Indeed, the Minister of State for Personnel and Public Grievances in the United Front Government, Mr. S. R. Balasubramanian, argued precisely this point in his reply to the NHRC. As domestic labour did not figure among the seven occupations and 18 processes prohibited in parts A and B

of the schedule to the Act, it cannot be regarded as having been prohibited. Concerning the amendment to the service rules, it was said that since it covered only a small segment, leaving a much larger area untouched, it would not make any significant impact on the malady of child labour. Pertinent here is the point that it is their age, stature and accompanying innocence that trap young boys, and girls into the dragnet of child labour.

The prohibition on employing only those below 14 evidently leaves a large grey area and legitimising the exploitation of those above this age is not the only one aspect. Just look at the absurdity of the age stipulation itself. It was barely a year ago that the United Nations Children's Fund reported that India accounted for one third of the world's unregistered babies. The percentage of registration in different States varies between 30 and 49. It is the more backward States which are also responsible for the low rates of registration. Now, the question how many children in the under classes possess a birth certificate will determine the effectiveness of enforcing the law on child labour. In the domestic help sector, the provision in the 1987 Act which leaves out of its purview employment undertaken by entire families can be notorious for abuse. After all, like many other forms of work, domestic help also tends to involve entire families and often generations. There is no gainsaying the need for a sensitive and enlightened public when it comes to ensuring the effective enforcement of the law. But then, shortfalls in this area can hardly be a justification for not fine-tuning the statutes themselves.

6th August 99
The Hindu Editorial



ILO Convention concerning the Prohibition and Immediate Action for the Elimination of The Worst Forms of Child Labour

Note: Date of coming into force: 19:11:2000

Convention: C182

Place: Geneva

Session of the Conference: 87

Date of adoption: 17:06:1999

The General Conference of the International Labour Organization Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international co-operation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and Having

decided upon the adoption of certain proposals with regard to child.

Labour, which is the fourth item on the agenda of the session, and having determined that these proposals shall take the form of an international Convention; adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

ARTICLE 1

Each Member that ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

ARTICLE 2

For the purposes of this Convention, the term *child* shall apply to all persons under the age of 18.

ARTICLE 3

For the purposes of this Convention, 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.

ARTICLE 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

ARTICLE 5

Each Member shall, after consultation with employers' and workers' organizations establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

ARTICLE 6

1. Each member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

ARTICLE 7

1. Each member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (a) Prevent the engagement of children in the worst forms of child labour;
 - (b) Provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - (c) Ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - (d) Identify and reach out to children at special risk; and
 - (e) Take account of the special situation of girls.
3. Each member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

ARTICLE 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international co-operation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

ARTICLE 9

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

ARTICLE 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any member 12 months after the date on which its ratification has been registered.

ARTICLE 11

1. A member, which has ratified this Convention, may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

ARTICLE 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

ARTICLE 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in

accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

ARTICLE 14

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

ARTICLE 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —
 - (a) The ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - (b) As from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the members.
2. This Convention shall in any case remain in force in its actual form and content for those members, which have ratified it but have not ratified the revising Convention.

ARTICLE 16

The English and French versions of the text of this Convention are equally authoritative.

Convention on the Worst Forms of Child Labour

1. Governments must act immediately to end the worst forms of child labour.
2. All children under the age of 18 must be protected from the worst forms of child labour.
3. Ending the worst forms of child labour means :
 - No child slavery or servitude
 - No child trafficking
 - No children forced to join armed conflicts
 - No child prostitution or pornography
 - No use of children for crimes, including drug trafficking
 - No work that harms the health, safety or morals of children
4. Governments must consult with employers and workers to identify what work is harmful for children
5. Governments must develop a way to monitor the implementation of this Convention.
6. After consulting with employers, workers, and other concerned groups, governments must start programmes of action to end the worst forms of child labour.
7. Governments must do everything necessary to implement the Convention, including penalising offenders. Recognising how important education is for ending child labour, governments must :
 - Prevent children from starting harmful work.
 - Help and educate children leaving harmful work.
 - Reach out to children at risk.
 - Make special efforts for girl child labourers.
8. Countries must help each other to end the worst forms of child labour.

Philippines is witness to eager activities on ratification. It takes a sound step closer to the enforcement with the formation of Task Force 182, a multi-sectoral campaign where many child labour project implementers join hands and seek early ratification. Beginning with initial mobilisation for the ratification, the first achievement came in the form of Senate Resolution seeking the early ratification of ILO Convention 182 on September 5, 1999. Issued by Senator Loren Legarda, the action paved the way for prompt proceedings. Next, on September 21, 1999, the Department of Labour and Employment issued an Order on the Guidelines on Hazardous Occupations for Young Workers. Then Senate Bill 1530 was formed by the collective efforts of the ILO-IPEC partners. This bill lays the groundwork for institutionalising the child labour programme by designating the lead monitoring mechanisms to track progress in the work against child labour. The first public hearing of the bill took place on September 22, 1999 by the Senate Committee on Labour and Employment. The bill is presently facing hearings in the Senate.

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The Bonded Labour System (Abolition) Act 1976

There still exists in India, a system of usury, under which the debtor and his descendants have to work for the creditor without reasonable wages or with no wages at all, in order to extinguish the debt. At times, several generations work under bondage to repay a paltry sum taken by a remote ancestor. The interest rates are exorbitant, and punishment for refusing to work terrible. Under the Act, no adult (or child) can be forced to work to repay an advance taken by him or his forefathers. Where the wages paid are less than the minimum wages prescribed by the State Government, the labour is judged to be bonded. All advances stand cancelled, the

property of the bonded labourer is freed from mortgages, all seized properties should be handed back, and the home of the labourer (if it is on the site owned by the landlord) is guaranteed to him.

Under this Act, the aggrieved person, adult or child, can approach the local Mandal Revenue Officer (MRO) for any or all of the above. The powers to try offences and order punishment (such as fine and imprisonment) lies with the Revenue Divisional Officer (RDO). No civil court has powers under the Act, the High Court alone having original jurisdiction. Under Section 15 of the Act, the burden of proff that a debt is not a bonded debt lies on the creditor.

Sec	Offence	Imprisonment	Fine
16	anyone compelling any person to render bonded labour	3 years and also	Rs. 2000
17	anyone advancing bonded debt	3 years and also	Rs. 2000
18	anyone extracting bonded labour	3 years and also	Rs. 2000, and out of the recovered fine, payment to the bonded labour at the rate of Rs. 5/day for each day of bonded labour
19.	anyone not restoring the possession of a bonded labour	1 year	Rs. 1000 and similar provisions as above
20.	anyone abetting any of the above	1 year	Rs. 1000 and similar provisions as above.



LABOUR LEGISLATION

1. A. P. Shops and Establishment Act 1988 is to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, restaurants, theatres and other establishments. In addition to regulating safety, security of service, hours of work, holidays, payment of wages, etc., payment of service, hours of work, holidays, payment of wages, etc., payment of service compensation, compulsory enrolment of employees in insurance-cum-savings schemes have now been introduced in this Act. A child is defined as one below 14 years of age.

Under Section 20, no child will be employed to work in any establishment. No young person shall be required to work between 7 p.m. and 6 a.m. and never for more than 5 hours a day without half-an-hour's rest. No young person will be allowed to work for more than 7 hours a day, and 42 hours in a week, not allowed to work overtime.

Under Section 30, every employee who has served for a period of 240 days or more shall be entitled in the next 12 months, leave with wages for 15 days. (This may be accumulated to a maximum of 60 days. Encashment is also possible. He/she is also entitled to 12 days leave for sickness/accident for every 12 months of service. Apart from this, there shall be 9 public holidays in a year.

Under Section 34, an employee who has served for a period of not less than a year shall subscribe to the State Insurance-cum-saving scheme as notified by the Government. The employer also pays his share of the Insurance. There are exhaustive rules for termination. Under Section 20, the District Labour Officer of the area is to hear and decide all claims regarding wages and service compensation. The Assistant Labour Officers are competent to make inspections and file claims, as also the aggrieved employers.

False or incorrect statement under Section 3 (while registering establishment)

Fine upto Rs. 100

Contravention of Sections 3, 4, 5 (Registration of establishment) 7, 9-12 13 (Opening and closing hours, holidays) 15-32 34-37, 49, 68-9

1st offence

Fine upto Rs. 1000

2nd offence

Fine Rs. 250-500

3rd offence

Imprisonment for 3 months and fine of Rs. 500-1000

Under Sec 62, the Assistant Labour Officers can also impose a fine not exceeding Rs. 100 from a person who is reasonably believed to have committed an offence under Sec 3, 4, 7, 8, 10, 12, 15, 16, 17, 19, 20 (employing child labour) 31 and 63 of the Act, in case of each violation by way of compounding (the offence is dealt summarily - then and there by fining etc.) such offence. After compounding, no further proceedings shall be taken in respect of such offence.

Section 82 : Nothing is an offence which is done by a child under 7 years of age.

Section 83 : Nothing is an offence done by a child between 7-12 years, who has not attained sufficient maturity of understanding to judge of the nature and consequences of her conduct on that occasion.

Under Section 125 Cr. P.C., all minor children including illegitimate children have a right to maintenance not exceeding Rs. 500 a month from their father.

Offences under the Indian Penal Code :

Sec	Offence	Punishment	By What Court triable
293	Sale, etc., of obscene objects to young persons	1st conviction-imprisonment for 3 years + fine of Rs. 2000, and 2nd or subsequent conviction, with imprisonment of 7 years. + fine of Rs. 5000	Any magistrate
305	Abetment of suicide committed by child	Death or imprisonment for life, or imprisonment for 10 years, and fine	Court of Session
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	Imprisonment for 10 years, or fine, or both	Court of Session
316	Causing death of a quick unborn child by an act amounting to culpable homicide	Imprisonment for 10 years, and fine	Court of Session
317	Exposure of a child under 12 years, by parent or person having care of it, with intention of wholly abandoning it	Imprisonment for 7 years, or fine or both	1st Class Magistrate
318	Concealment of birth by secret disposal of dead body	Imprisonment for 2 years, or fine or both	1st Class Magistrate
361	Anyone taking/enticing a minor (male under 16 years ; female under 18 years) out of the keeping of the lawful guardian, without the latter's consent.	Imprisonment upto 7 years and fine	Magistrate
363-A	Kidnapping or obtaining the custody of a minor in order that such a minor may be employed / used for begging	Imprisonment for 10 years and fine	1st Class Magistrate
363-A	Maiming a minor for begging sessions	Life imprisonment and fine	Court of Session
366-A	Procuration of minor girl fine	Imprisonment for 10 years and time	1st Class Magistrate
366-B	Importation of girl from foreign country	Imprisonment for 10 years and fine	1st Class Magistrate
369	Kidnapping or abducting a child to take property from the person of such child	Imprisonment for 7 years and fine	1st Class Magistrate
372	Selling or letting to hire a minor for prostitution	Imprisonment for 10 years and fine	Sessions Court
373	Buying or obtaining a minor for above purposes	Imprisonment for 10 years and fine	Sessions Court

<p>376 Rape</p> <p>If sexual intercourse by a man with his own wife over 12 years</p> <p>If the same with by a man with wife under 12 years</p> <p>Sexual intercourse by a man with/without consent of the girl under 16 years of age.</p>	<p>Imprisonment for 2 years, or fine, or both</p> <p>Life imprisonment, or for 10 years, and fine</p> <p>Life imprisonment, or for 10 years, and fine</p>	<p>Sessions Court</p>
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National Curriculum Framework for School Education : Nov. 2000

SALIENT FEATURES

The National Council of Educational Research and Training has to advise and assist the Government of India in formulating and implementing policies and programmes in the field of education, particularly school education. To that end, it has been preparing, after the interval of roughly every decade, a national curriculum framework for school education and giving broad guidelines about how to address the major concerns and issues before the nation. The states have been, subsequently, adopting or adapting these curricular guidelines to develop their own detailed curricula, syllabi and curricular materials.

The present curriculum framework encompasses all the stages of school education from the pre-primary to the higher secondary. It is the product of an open democratic national discussions and deliberations generated through a *Discussion Document* produced by the NCERT after extensive and intensive multilevel consultations and debates. Almost all the sections of the Indian society have directly or indirectly contributed to the development of the present curriculum framework. These include noted educationists, experts, teachers and teacher educators, parents, representatives of voluntary organisations, boards of school education, state governments and community in general.

While the framework responds to many new societal and pedagogical changes, it remains well within the broad parameters of the *National Policy on Education* framed in 1986 and revised in 1992. Some of the new concerns that lay the foundations of the new framework are:

Building a cohesive society based on pillars of relevance, equity and excellence.

Integrating indigenous knowledge and recognising India's contribution to the world civilizations.

Inculcating and nurturing a sense of pride in being an Indian, patriotism and nationalism tempered with the spirit of *Vasudhaiva Kutumbakam*.

Universalising elementary education and linking education with life skills

Value development at all stages of school education.

Meeting the challenges of information and communication technology and globalisation.

Reducing the curriculum load using culture specific pedagogy viewing the child as a constructor of knowledge recognising the interface between cognition, emotion and action empowering teachers for curriculum development and implementation co-ordinated decentralisation of the process of curriculum development.

Some of the major recommendations made for the qualitative improvement at the different stages of school education are as follows:

Ensuring availability of pre-school education to all children in the country and prohibiting formal teaching and testing of different subjects at this level.

Integration of environmental education with languages, mathematics and other activities in the first two years of the primary stage.

Integration of art education, health and physical education and work education into the 'Art of Healthy and Productive Living' at the primary stage.

Education about religions and inherent values of all religions to be imparted at all the stages of school education.

Integration of science and technology up to the secondary stage bringing mathematics closer to life and setting up of mathematics corner in the existing science laboratory for practical mathematics upto the secondary stage

Integrated, thematic approach to the teaching of social sciences upto the secondary stage sticking to the basic policy of three language formula and emphasising the teaching of Hindi as the official language of India and Sanskrit as the language of traditional wisdom and culture of the country.

Emphasising the implementation of semesterisation at the secondary and higher secondary stages.

Provision for wide flexibility and freedom in the choice of subjects among the courses to be offered at the higher secondary stage.

Providing a strong vocational stream for enhancing employability and entrepreneurship at the higher secondary stage.

Provision for general academic and specialised elective language courses at the higher secondary stage.

Evolving a humane, learner friendly, error-free, responsive and transparent evaluation system.

Reducing the predominance of external examinations and removal of the pass and fail categories upto class.

Use of different methods of grading scholastic and co-scholastic areas of learning use of alternative evaluation procedures for learners with special needs.

Toward the effective implementation of the framework the following specific recommendations have been made:

Adoption of suitable implementation strategies for the orientation, participation and accountability of teachers, parents, community and the managers of the system.

Suggestions for specific implementation strategies for promoting values, ensuring the inclusion of learners with various challenges in the mainstream, and mobilising the requisite resources for achieving the educational goals of the country.

SUMMARY

The National Council of Educational Research and Training (NCERT) assists and advises the Government of India in the

formulation and implementation of policies and programmes in the field of education, particularly school education. It has been developing for the country model school curricula which respond appropriately to the needs and aspirations of its people. As such, roughly after every decade, the NCERT has initiated the process of evolving a national curriculum framework for school education keeping in view of the major concerns and issues before the nation. The states thereafter have the freedom to adopt or adapt these curricular guidelines to develop their own syllabi and curricular materials.

The NCERT initiated the latest venture of developing a new curriculum framework in 1999, and has brought out the *National Curriculum Framework for School Education, 2000*. It comprises five chapters.

Chapter 1 deals with the context and concerns of the nation of today and tomorrow. A brief history of Indian education through the years – ancient, medieval and modern, provides an introduction to help one understand and appreciate the socio-cultural context of the country that evolved during the past fifty years. Along with a brief account of the school education scenario in the post-independent India, a historical perspective of the process of curriculum development helps in visualising the changes that have taken place during this period. Against this background, the curricular concerns have been elaborated in great detail as they need to be reflected suitably in the curriculum at the elementary, secondary and higher secondary stages of school education. Curriculum development, a dynamic phenomenon, needs to be responsive to the fast changing society. It leads to an education system that would reduce inequalities, respond to social, cultural and economic concerns of the learners and the society and promote excellence. In other words, the curriculum must stand on three pillars of *relevance, equity and excellence*. Thus, one of the major curricular concerns is providing education for a cohesive society so that equality of opportunity and access to quality education to various groups including girls, learners with special needs and learners from disadvantaged groups is ensured.

Strengthening national identity and preserving cultural heritage, as well as integrating indigenous knowledge and India's contribution to mankind emerge as other important curricular concerns. While responding to the impact of globalisation in today's world, learning to live and work together and ways and means to develop it, assume great significance. It also requires the discovery of a new scope for old disciplines. Curricular concerns, such as the challenges of Information and Communication Technology, linking education with life skills and education for value development, need to be taken seriously for developing a vibrant society. Universalisation of elementary education remains one of the major concerns of our country today and this commitment has to be fulfilled at the earliest. In this direction, the role of alternative and open schooling is very crucial. One of the major challenges lies in tackling the issue of integrating diverse curricular concerns without overloading the curriculum and yet making it relevant and effective. Relating education to work is another major concern, which requires better focused programmes based on local needs and resources. The problem of curriculum load needs to be addressed in all earnestness. Besides pruning of the curriculum from time to time, several measures like removing the mismatch between the developmental capacities of the children on the one hand and the curricular expectations and teaching learning methods on the other would go a long way in reducing the curriculum load substantially. As opposed to the epistemic model of children's learning, the constructivist movement provides a greater scope for children's social experiences in acquiring knowledge. This approach would help the child become an active learner. For an all-round development of the learners, the interface between cognition, emotion and action is necessary. Unlike the traditional concept of intelligence, multiple intelligence has got ground today and it has to be reflected in the curriculum development. Culture specific pedagogies, development of aesthetic sensibilities, continuous and comprehensive evaluation, and empowering teachers for curriculum development, transaction and evaluation are

the other curricular concerns that need to be addressed effectively.

Education is to be seen as a lifelong process. In a fast changing world, new developments seem to be claiming appropriate place in the curriculum urgently and hence there has to be some provision for accommodating such areas in the existing curriculum every two to three years in the form of frontline curriculum.

In view of the size of the country and the global experiences, the process of co-ordinated decentralisation of curriculum development and implementation has been advocated. It means that while the broad framework is developed at the central level, the states may study and analyse it in their own contexts. In evolving the curricular policy, the views and participation of all the stakeholders is of crucial importance.

Chapter 2 is devoted to the organisation of the curriculum at elementary and secondary stages, which complete the ten years of general education. With a view to meeting the societal demands on education in reference to the emerging context and concerns, some thrust areas were identified within the broad frame of *National Policy on Education, 1986* and the *National Curriculum for Elementary and Secondary Education : A Framework, 1988*. As such, uniformity in the structure of the school education throughout the country (i.e., 10+2), continuing the three language formula and using the mother tongue as medium of instruction would be the need of the hour.

Emphasis is to be laid on:

broad-based general education to all learners up to the end of the secondary stage to help them acquire basic life skills and emotional intelligence;

a common scheme of studies for the elementary and secondary stages with emphasis on the skill of 'learning how to learn' with flexibility of content and mode of learning to suit all learners including those with special needs; and

inclusion of fundamental duties and the core curricular areas at all the stages of school education.

Proper implementation of the *Minimum Levels of Learning* is necessary for making learning relevant to the needs and environmental contexts of the learners and allowing scope for initiative and experimentation on the part of the teacher, the school and the local authorities. Value education deserves prominent place in the school curriculum for inculcation and sustenance of personal, social, national and spiritual values like cleanliness and punctuality, tolerance and justice, a sense of national identity and respect for law and order and truthfulness. Awareness of all the major religions of the country needs to be created among school children. The new thrust areas include:

Elimination of evils like poverty, ignorance, ill health, corruption and violence, and ensuring equity, health, peace and prosperity.

Thoughts, experiences and innovations which are rooted in the Indian tradition and ethos and relating these with global thinking.

Human rights including the rights of the child, especially those of the girl child.

Nurturance and sustenance of multiple talents and creativity among all learners in all spheres of learning at the earliest opportunity.

Shift of emphasis from information based and teacher centred education to process centred and learner friendly education.

Use of Information and Communication Technology.

General objectives of education lay emphasis on developing the learners' personality in all respects and realising the national goals of development. The focus has therefore been on the following:

Appreciation for the need of a balanced synthesis between the change oriented technologies and the continuity of the country's traditions and heritage.

Understanding of the positive and negative impact of the processes of globalisation and liberalisation in the context of the country.

A deep sense of patriotism and nationalism tempered with the spirit of *Vasudhaiva Kutumbakam*.

Qualities clustered around the personal, social, national, moral and spiritual values that make a person humane and socially effective, giving meaning and direction to life.

Qualities and characteristics necessary for self learning, self directed learning and life long learning leading to the creation of a learning society.

Emphasis on the 'learner-centred approach' commensurate with the physical, mental, social and emotional development of the learners in relevant age groups. In this context, the shift from the traditional Piagetian model of the 'child's development' to the 'Zone of Proximal Development' of the learner assumes great importance.

SCHEME OF STUDIES

Taking into account the general objectives of education and realising the need for addressing the problem of curriculum load at various stages of school education, a scheme of studies has been proposed which recommends : (a) two years of Early Childhood Care and Education to be made available to all children of 4-6 years of age with no formal teaching and evaluation and only for providing experiences to promote school readiness; (b) the study of one language (the mother tongue/ the regional language), Mathematics and the Art of Healthy and Productive Living in Classes I and II. In addition, Environmental Studies will be taught in Classes III to V; (c) at the upper primary and the secondary stages, subjects to be studied will include three languages (the mother tongue/the regional language, a modern Indian language and English, Mathematics, Science and Technology, Social Sciences, Work Education, Art Education (fine Arts : visual and performing) and Health and Physical Education (including games and sports, yoga, NCC, Scouting and Guiding and Red Cross). Besides, Computer Education will also be made available wherever possible.

The characteristic features of the school curriculum would include:

Healthy, enjoyable and stress free Early Childhood Care and Education for all learners with no formal teaching of subjects and no

formal testing.

Integration of environmental education with languages, mathematics and other activities in the first two years of the primary stage.

Integration of art education, health and physical education and work education into the 'Art of Healthy and Productive Living' at the primary stage.

Bringing mathematics closer to life up to the secondary stage and setting up a mathematics corner in the existing science laboratory for practical mathematics.

Inclusion of games, sports, yoga, NCC, Scouting and Guiding and Red Cross under health and physical education at the upper primary and secondary stages.

Integration of science and technology up to the secondary stage.

Integrated thematic approach to the teaching of social sciences at the upper primary and secondary stages.

Teaching of Sanskrit as part of composite courses of Hindi and the regional languages as mother tongues at a suitable point of the primary and upper primary stages and as an additional optional subject at the secondary stage.

Due importance to the teaching of Hindi as the official language of the country.

Provision for teaching of foreign languages as additional options at the secondary stage depending on the demand and the infrastructure available with the schools.

Due importance to the scholastic and co-scholastic areas by allocating adequate time for each area and adhering to it.

Provision for development of an appropriate and effective alternative schooling system and open schooling.

Chapter 3 deals with the organisation of curriculum at the higher secondary stage, which has been covered in the *National Curriculum Framework* for the first time.

The higher secondary stage of education offers maximum challenge in many ways.

Passing through the crucial years of adolescence to youth, the students can choose courses according to their needs, interests, capabilities and aptitude. They may go in for specialised academic courses or job oriented vocational courses. A large number of students after this stage may enter the world of work while some would pursue higher studies of their own choice. Hence, education at this level has to focus on knowledge, skills, attitude and entrepreneurship. In order to equip the youth to cope with the changes and challenges in life, it is essential to appropriately emphasise and carefully nurture cultural and ethical values as well.

Equity and excellence have to be given due importance. Special care has to be taken of institutions located in rural, tribal and remote areas to remove the existing disparities. At the same time, national standards in education, comparable to any international standards will have to be ensured.

Diversification of courses in the form of academic and vocational streams takes place at this stage. Flexibility in the choice of subjects and pace of learning must replace the traditional rigidity in these matters as far as possible. In both the streams, a judicious blend of foundation courses and need based elective courses is to be made available. Mental inhibitions setting barriers between academic and vocational streams and between various traditional subject groups have to be dismantled. The Open School System can be utilised for both the streams. A symbiotic relationship between the formal system and the alternative and open learning systems will be very advantageous to the learners. Semesterisation could also be introduced in a gradual manner at this stage as it will facilitate flexibility in learning and evaluation.

Curriculum at this stage is to be organised under two streams, the Academic stream and the Vocational stream, with appropriate linkages between the two. In the Academic stream, the curriculum will comprise:

- (i) the Foundation Course, consisting of language and literature, work education and health and physical education, games and sports;
- and (ii) Elective Courses comprising three

elective subjects to be chosen from a group of the traditional subjects of study and also some new potential subjects like consumer education, legal literacy, population education, migration education, disaster management, computer science, genomics, environmental science and yoga. A second language out of the modern Indian languages, Sanskrit, classical languages, English (academic or specialised) and other foreign languages may also be taken up as an elective subject. The choice of the language under the Foundation Course and the Electives may be left to the learners' preference.

Vocational education has to be given a high priority at all the stages of schooling. Vocational courses at the higher secondary stage may not be rigid like the two year courses, but flexible and may be reviewed periodically. The non-formal vocational programmes with emphasis on entrepreneurship and non-traditional technologies should be geared to the needs of the out-of-school girls. To these ends, multi-entry and multi-exit modular courses of varying durations may be introduced. These programmes must meet the needs of disadvantaged groups like women, scheduled castes and scheduled tribes and physically challenged persons.

Excellence in vocational education, competency based curricula and linkages between schools and industries are important features of vocational education, which has to cater to the needs of an organised sector, service sector, rural and agro-based industries, agriculture, business and trade.

The Vocational stream will also have a strong component of Foundation Course comprising language and literature, general studies and health and physical education. The Elective courses under this stream will cover areas like agriculture, engineering and technology, business and commerce, computer application, home science, health and para-medical services and humanities.

Vocational education would require special instructional strategies. These would include training-cum-production centers of the schools, apprenticeship training and internship experience for integrating and refining

knowledge and skills.

Chapter 4 covers the different parameters of the evaluation of learners' progress in a systematic way. Evaluation occupies a very significant place in the entire gamut of activities concerning teaching – learning. It involves systematic collection, analysis and interpretation of learners' progress both in scholastic and co-scholastic areas of learning to provide constant feedback about the effectiveness of course content, classroom processes and the growth of individual learners. It can be used as a powerful means of influencing the quality of school education. Evaluation has to be realistic, reliable, valid, transparent, humane and flexible in order to help proper decision-making for the betterment of the learners.

The present trend in evaluation lays too much emphasis on scholastic aspects, ignoring the co-scholastic ones. Memorisation of facts is given precedence over abilities and skills involving higher mental operations such as problem solving creative thinking etc. The real potential of children is not assessed. The fear of public examinations and the failure rate create psychological tension which percolates down and sometimes results in extreme mishaps. There is no room for diagnosis and remediation in the process. Above all, the backwash effect of examinations delimits the scope of teaching and frustrates the very concept of mastery learning by promoting selective teaching.

Evaluation needs to be profitably exploited to enhance learners' capabilities, both in scholastic and co-scholastic areas. Both formative and summative evaluation needs to be used in good harmony. While the former can be utilised for organising remedial measures for the weak learners and enrichment interventions for the bright ones, the later can help in classification, placement and promotion of all the learners. These can be pitched at three levels, self referenced, criterion referenced and norm referenced. The ultimate aim of good evaluation has to be to help the all-round development of students, personality. Examinations before Class X must be replaced by school-based evaluation which will be

continuous and comprehensive in character. The first public examination needs to be conducted by the boards in scholastic areas only. Again, assessment in the co-scholastic areas of learning has to be school based on the basis of which grades will be awarded.

At the pre-primary stage, formal evaluation is not at all required. It has to be formative in nature and even the remedial measures may be made to appear as a part of the learning process without making children conscious of it.

Formative evaluation needs to be continued at the primary stage with emphasis on continuity and comprehensiveness. Observation and oral techniques need to be widely used and the paper pencil tests may begin in Class III. The use of criterion referenced tests and remedial measures would help attain the level of mastery. The performance of learners will be indicated using three point absolute grading in respect of scholastic areas and three point direct grading in co-scholastic areas. Evaluation of the co-scholastic areas will be reported once in every three months. Cumulative record cards need to be put to regular use.

At the upper primary stage, apart from the oral and written tests, assignments and project work will also be included in the continuous and comprehensive evaluation process. Criterion-referenced tests will be used periodically to assess the learners' acquisition of mastery levels. Co-scholastic attributes will be assessed through observation rating scale and checklists and reported on quarterly basis. Diagnostic and remedial teaching will be a regular feature. At this stage, five-point absolute grading will be used for scholastic areas and three-point direct grading for recording progress in co-scholastic areas will continue. Self-evaluation and peer evaluation will form part of the total evaluation procedure.

Courses will be modularised for the four semesters of the secondary stage. Evaluation has to be school-based using only the continuous and comprehensive mode. Criterion referenced tests will be employed periodically. A nine-point absolute grading will be needed for evaluating progress in scholastic areas. Co-

scholastic areas will be assessed through observation, check-lists and rating scales using a five-point direct grading. Cumulative record cards will be maintained. Portfolios of students will also contain their self-appraisal and peer evaluation. The predominance of external examinations will be reduced and the practice of declaring pass and fail categories upto Class X will be discarded.

The courses at the higher secondary stage will be organised in four semesters using credit system. Evaluation of the first three semesters will be the responsibility of schools while the fourth semester examination will be conducted by the boards. This will enable students to earn credits at their own pace. Tutorials will be introduced and schools will focus on criterion referenced testing while the boards will focus on norm referenced testing.

A nine-point absolute grading will be used for school based evaluation of the scholastic aspects of learning by directly converting marks into grades. Five-point direct grading will be used for the evaluation of co-scholastic areas of learning. Schools will convey to the boards the grades awarded for scholastic areas for the third semester and grades for co-scholastic areas for the third and fourth semesters for their transcription on the final result card. Opportunities for improvement of grades will be made available.

With a view to maintaining standards periodic achievement surveys will be conducted at the end of every stage of school education using standardised achievement tests. The outcomes of surveys will be utilised for planning and designing appropriate interventions besides developing institutional, regional, state and national profiles. Modern technologies will also be used in evaluation as their application may help provide quicker and more reliable results.

Widespread disparity in standards of examinations among thirty-four boards conducting examinations at the end of Classes X and XII has been experienced and no common or national standards of achievement are available for equating them. This has led to multiplicity of entrance tests conducted by professional institutions in areas like

engineering, medicine and management which has caused undesirable stress and strain on the minds of both students and parents besides giving rise to malpractices and wasteful expenditure. There is an urgent need to set up a national level body to act as a quality control mechanism and help in ensuring uniformity of standards. National Evaluation Organisation as recommended by the *National Policy on Education* (1986) and the *Programme of Action* (1992) needs to be established. Such an organisation will hold nation wide tests on a voluntary basis to evolve norms for comparability. It may also undertake various other functions ranging from developmental activities to conducting research which will have direct bearing on students' evaluation. It must be a non-profit making organisation.

Chapter 5 has been devoted to the strategies of the implementation of the *National Curriculum Framework*. The curriculum framework provides directions to the educational system. Its implementation leading to the desired impact depends upon a comprehensive understanding of the framework among teachers, committed management support and strong political will and insight. Successful translation of curriculum framework into practice would require a multipronged strategy involving different agencies and ensuring the following:

uniform educational structure of the 10+2+3 pattern with two years of pre-school experience;

development of new generation instructional materials both in print and non-print modes;

an effective mechanism of orientation of teachers, educational functionaries and the community;

strengthening of the managerial and technical support systems; and

an effective monitoring mechanism with scope of inbuilt mid term corrections.

Co-ordinated decentralised curricula, syllabi and instructional materials with the involvement of local organisations at different levels would

be helpful in responding to local needs and aspirations. Equitable importance would be given to both scholastic and co-scholastic areas while developing detailed curricular guidelines, model syllabi and competency based and process oriented materials. This will facilitate joyful self learning and self directed learning experiences in formal and alternative modes. Besides, modular packages of textbooks, workbooks and teachers' handbooks and multimedia materials and encapsulated orientation materials for parents, community and managers should be developed and adopted or adapted in all the national languages of India. Flexibility of procedures needs to be maintained at all the stages. Physical and other resources may be optionally drawn from the community and the rural and urban environments. A sound curriculum development venture requires a strong research base. The NCERT, the SCERTs and other similar organisations should encourage, sustain and carryout individual and collaborative researches and disseminate their outcomes. Capacity building needs to be attempted using the principle of positive discrimination based on the professional appraisal of institutions.

The preservice teacher education curriculum has to incorporate new concerns and issues emanating from the new curriculum framework. Besides, the integration of content and pedagogy, competencies relating to curriculum development need to be developed. This has to be reinforced through recurrent inservice training using the cascade and teleconferencing modes.

Since headmasters and principals have to play an important role as facilitators in curriculum implementation, proper induction and inservice training of such functionaries and administrators would be desirable. It will help ensure accountability and effectiveness revealed through proper monitoring mechanisms.

All the institutions engaged in teacher preparation at the elementary and secondary levels will have to be involved in all areas of curriculum development, its transaction and evaluation in a big way.

District level resource support through DIETs can be further augmented at the block and cluster levels. Networking of teacher education institutions needs to be established for proper sharing of resources for qualitative improvement. Monitoring and evaluation of teacher education programmes, preservice, inservice, lifelong and continuing education and programmes of professional growth have to be organised. Accreditation of institutions should help enhance their capacities.

Integration of Information and Communication Technologies (ICT) into schooling needs serious consideration. Teachers, educators, curriculum developers, evaluators and others will have to redefine their roles to tackle ICT rich environment and harness its full potential for the benefit of learners.

Close co-ordination between national and state level agencies and sectors of employment and entrepreneurship can strengthen vocational education. Linkages — both horizontal and vertical — will need to be established among them. Researches, surveys and innovations may add to the quality of vocational education. The goal of quality vocational education can be achieved by preparing and inducting quality teachers, seeking community support in terms of guest faculties and resource persons, developing appropriate skills and attitudes through transaction of need based curricula, and using relevant teaching learning materials. Proper understanding of and acquaintance with the emerging areas of employment and entrepreneurship would also be required. Secondary schools will provide necessary information on the avenues and potentialities of vocational areas to children and parents. Pre-vocational courses would have to be initiated earlier in all the institution that offer vocational courses at the higher secondary stage. Block level training institutions will perform multiple roles by offering flexible, modular and competency based vocational courses to cater to the needs of a variety of target groups and providing resource support to the neighbouring institutions.

Value inculcation must be given due importance. While every teacher has to be a

teacher of values, every activity, unit and interaction must be examined from the view point of value identification, inculcation and reinforcement so as to evolve an appropriate strategy for judicious implementation. School goals need to be clearly defined and disciplines evolved through participation of staff and students. Morning assembly in all schools should focus on value inculcation. Interesting stories about the lives and teachings of prophets, saints and sacred texts of different religions, readings from books of wisdom, essential teachings of all the major world religions and meditation may constitute a regular activity as per the levels of students. Community singing programmes, National Integration camp, NSS, NCC, games and sports, Scouting and Guiding and Red Cross may be suitably introduced. Cultural activities, plays, debates and joint celebrations should be organised on the festivals of major religious and cultural groups. The aim of value education should be to generate better understanding of each other with a view to creating a tolerant and cohesive society. Much will depend on teachers, materials and intervention strategies which need to be carefully chosen.

Learners with special needs will have to be brought into the main stream in inclusive schools where learner centred teaching, group learning, co-operative learning and peer tutoring will be emphasised. Definite action at the level of curriculum makers, teachers, writers of instructional materials and evaluation experts would be helpful in the success of the strategy. Vocational Guidance and Counselling would require additional focus. Above all, well equipped functionaries will make the effort more meaningful.

Implementation of evaluation strategies will require appropriate climate building through generating awareness about the reforms among the masses. It should be supported by a variety of materials pertaining to various concepts, evaluation tools and approaches to be made available to the people concerned. All functionaries from teachers to managers have to be thoroughly updated and provided due support from all quarters.

Schools will have to develop their own schemes and strategies of evaluation for Classes I to XII. The boards of school education will have a supportive role to play. They may develop prototypes of evaluation materials and tools and provide them to schools. Besides, the boards may organise orientation programmes for capacity building of teachers and undertake research and disseminate the findings. State and district level agencies have to shoulder the responsibilities of assisting and guiding schools in developing appropriate instructional materials, transactional strategies and evaluation procedures.

Evaluation needs to be made a core component of preservice teacher education curricula. In-service education of teachers must also contain a strong component of evaluation.

The national level agencies such as the NCERT, the Council of Boards of School Education and the proposed National Evaluation Organisation must devote themselves to laying down of expected levels of attainment, developing conceptual materials and tests, conducting evaluation research and achievement surveys and disseminating the outcomes.

The need for proper provision of educational and vocational guidance at the higher secondary stage is unequivocally stressed.

Qualitative improvement of school education requires strong intra sectoral and inter sectoral linkages at different levels, viz., national, state, district and local (village/block/city). Clearcut defining of goals coupled with delegation of responsibilities with accountability at all levels is the need of the hour. Task forces may be set up at state, district and local levels for ensuring better co-ordination among them.

These task forces may have three to five year terms with autonomy of action for achieving the objectives. These will assess infrastructural needs, make plans for augmenting the resources, suggest suitable interventions and supervise, monitor and evaluate the changes as a link between the government and the community.

It is absolutely necessary to make adequate provision for the minimum essential facilities required for effective transaction of the curriculum in all the schools and alternative schooling centers. The country has to invest six per cent of the GDP on education as promised in its five year plans.

It must be ensured that all the schools have the bare essentials for teaching-learning, such as, school building with classrooms, drinking water and toilet facilities, instructional materials and teaching aids. These may be acquired through time bound strategies involving the government, the community and the other stake holders. Adequate number of teachers may be made available without undue delays. Undisturbed teaching hours must be ensured and teachers should not be assigned extra tasks at the cost of teaching. Instructional materials should be made available as per the need. Resource support in terms of laboratories, libraries, equipment etc. is necessary not only for quality but for equity as well.

Trained subject teachers would be required right from the first year of the upper primary stage. All the necessary requirements would need to be met at the higher secondary stage for both the streams, academic and vocational. Above all, trained, qualified, competent and committed teachers would make curriculum implementation a success.



Planning for Quality of Elementary Education

Draft II

Introduction Sarva Shiksha Abhiyan (SSA) it is expected that the state and district teams will develop plans to achieve Universalisation of Elementary Education. One of the important features of the SSA is the decentralization in planning, delivery, monitoring and other aspects. This brief paper, therefore, intends to raise issues and provide some guidelines, which will facilitate planning for improving the quality of elementary education. It is important to mention that the states/districts need to plan many more things, which may not find a place in this paper to suit their needs and local conditions.

The quality of education is one of the most important components of Universalisation of Elementary Education (UEE). It is observed that in the process of planning for UEE the planners start planning for universal enrolment, universal enrolment, universal retention (providing physical facilities, incentives etc.) In the process, planning for the improvement of quality of education in schools is deferred and subsequently gets lower priority in school education. Mere focus on access, enrolment and retention without resulting in betterment of average learning levels becomes a wastage of resources as well as adversely affects school effectiveness. This goes without saying that regular attendance of children in schools and their retention till the completion of specified level i.e., elementary stage of education also depends to a great extent on the quality of education provided in educational institutions. All these components of UEE are inter-related and call for a holistic approach to planning. Hence, any plan to improve the on-going system has to understand the parameters and factors influencing school learning and learning outcomes. No doubt, the quality of education in schools depends to a great extent on what is taught in the classrooms. But at the same time some other factors such as learning environment, family support, activities outside the classroom, relevance of learning to children's life situations, contextuality of the learning outcomes, etc., are also equally important factors influencing quality.

Planning for improving the quality of primary education is different as compared to the planning for enrolment and retention as the improvement in quality of education is a slow process and the impact of the intervention is not visible immediately. Therefore, the target for achieving quality education has also to be set accordingly. The SSA draft document prepared by the MHRD visualises elementary education of a 'satisfactory quality for all children' by 2010. However, in no way does it imply that universal enrolment and retention has to be achieved first and then only can quality be attended to. It is imperative that efforts towards achievement of quality have to go hand in hand with efforts directed at enrolment and retention. Therefore, the planning for quality must be undertaken immediately. However, the district planners need to take note of the fact that children presently studying in different classes are already getting education within the existing school set up and are maintaining a particular level of achievement. Hence, any intervention to improve this process introduced at a particular point of time will not take care of the quality of learning of all children uniformly. In order to facilitate the planning process some key indicators of quality have to be identified and then relevant information pertaining to those indicators be collected which will help in planning.

For planning interventions or identifying inputs to improve the quality of elementary education under SSA, the parameters and information needed for the planning mentioned in this paper need to be collected and taken into account. Besides it is equally important that reasons, problems or impediments in improving the quality should also be identified. This information is mostly of a qualitative nature for which hardly any record is available in schools or in offices. For collecting all the necessary information it is suggested that Focus Group Discussions (FGDs) are conducted separately with headmasters, teachers and community members depending on the kind of information required. In addition, the FGDs will also be helpful in assessing the perceptions,

expectations, etc., of those concerned about the quality of education and the present status of quality.

Limitations

Since the planning exercise has to be undertaken immediately and completed in the shortest period of time, there is hardly any scope to conduct a baseline study of the pupils' achievement and other aspects of quality to precede the planning process. Therefore, for the present, one has to depend on the secondary data available with the educational institutions and information collected through FGDs. It is also likely that information pertaining to many aspects mentioned in this paper may not be available readily. Under the circumstances, efforts shall have to be made to collect whatever data is available systematically without spending a lot of time in collecting all the required data. The plan so developed can be modified later on when more detailed data is available or the baseline study is conducted.

Some of the major components pertaining to the quality dimension of elementary education have been broadly discussed below along with related issues in section II.

Section I

Learning Environment and Support Services

The learning environment available to a child both in the school and outside has a direct as well as an indirect effect on his/her learning. It is important, therefore, that relevant information regarding the school learning environment as well as the support inputs and services provided to the school and children for creation of optimal learning conditions is collected. Some of the important aspects on which information is needed are the following:

- Facilities for pre-school education to children in terms of availability of facility, quality, impact and linkage with the primary school.
- Role/participation of community in school activities.
- Family support in terms of support for cost of education, academic help, facilities for study at home etc.
- Facilities available for health check-up etc., and health status of children.

- Current status of schools in the district in terms of
 - Number of schools
 - Structure (primary/upper primary/secondary) - Management (government/private/private aided).
 - Location of schools (rural/slum/urban/tribal)
 - Infrastructural facilities.
- Status of teachers position in schools
 - Nature of pre-school teachers
 - Number of posts sanctioned
 - Number of vacancies
- Financial and other incentive schemes - scholarships, free supply of dress, textbooks, stationery, mid-day meals etc.
- Facilities and strategies for providing academic help to teachers by inspecting staff, District, Block, DIET or any other institution.
- Any other relevant information.

All the above information can be collected through examining the school records and focus group discussions.

The collected information will help in planning the activities and intervention strategies needed to improve the physical facilities in schools and inputs needed for the same. It may be noted that there are only a few items for which inputs can be given by the Education Department or provision can be made under SSA. There are many items like health services, early childhood care and education and so on, which can be provided by other departments. Therefore, the inputs or help needed from other departments can be sought from them and the strategy to be adopted for the same may be planned accordingly.

Teacher's Competency

It is universally acknowledged that every teacher plays a pivotal role in any kind of a teaching - learning situation. By implication, a competent well-prepared teacher will only serve to enhance the quality of education being imparted to children.

In the classroom setting, teachers' competence depends greatly on their knowledge and skills in different subject areas, mastery of the same and pedagogical practices they adopt.

In addition, teachers' attitude towards children, their level of motivation, interest and commitment and ability to interact with parents and community members also contributes to and influences the quality of teaching-learning process. Teachers level of competency in turn depends largely on two aspects - pre-service education and in-service training they have been exposed to after joining the teaching profession. Against the above background, if continuous quality improvement is desired in the school-classroom processes, it becomes necessary to assess teachers' competency.

The issue of assessing teachers' competency in the actual field situation (schools) is a sensitive one as tests are looked upon suspiciously and offending teachers would only be counter productive. Test administration not being feasible or practical, interviews, focused group discussions and classroom observation provide alternative strategies for data collection besides collecting some basic information from school records.

Information on the following aspects will provide a base to start assessing the level of competency of each teacher :

- Educational qualifications.
- Years of experience at the primary and upper primary level.
- Languages known.
- Subject area specialisation if any,
- Level of mastery in different subject areas.
- Pre-service education (all details)
- Availability of subject wise teachers for different subjects at the upper primary stage of education.

Besides this it becomes crucial to gather data on

- Classroom organisation and management.
- Ability to develop and use TLM
- Ability to handle children with special needs.
- Type of methods used for curriculum transaction.
- Problems faced.
- Suggestions for improvement.
- Community's expectations.

In addition, details regarding in-service training is equally important for a number of

reasons. Firstly, many a times it is seen that teachers have had no pre-service education and the gap therefore has to be bridged through providing appropriate in-service inputs. Secondly, even if teachers have had pre-service exposure the actual school situation throws up a number of challenges in terms of children's needs and requirements and local specific demands, to mention a few. Finally, in a fast changing world particularly in view of the information and technology explosion, teachers have to face new challenges on a daily basis. Therefore, adequate preparation of teachers can only be met through regular in-service training programmes, or a cycle of refresher courses could also be planned for bridging the gaps that have been identified.

In order to identify gaps/lacunae, details regarding training programmes attended by teachers in the last five years, with reference to the following aspects is important :

- Number of in-service training programmes.
- Type of in-service inputs provided.
- Focus of in-service programmes.
- Usability of information provided in in-service programmes.
- Level and organisation providing in-service-inputs.

All the data mentioned above will facilitate more focused planning by educational authorities and teacher educators for :

- Developing and conducting appropriate need based in-service training programmes for teachers and head teachers for enhancing knowledge, skills, competencies and developing positive attitudes towards children and the teaching professions.
- Developing context specific training inputs based on local needs and requirements of teachers teaching in different contextual situations and different target groups.
- Clarifying and detailing the role and functions of DIET, teacher training institutions SCERT, BEO, CRC's if any, and other non-government institutions for the overall empowerment of teachers.
- Specific inputs for teaching in multigrade/monograde contexts and handling of small

and large size classes amongst other situations.

This kind of conscious effort will directly or indirectly help to improve the overall quality of teaching - learning inputs provided by the teacher.

Opportunity Time

In the school context, time is in all - important factor since it is within this basic parameter that teachers transact the curriculum that children learn. It is not simply the number of days the school is open or functions for, but how this time is used by teachers in schools. This becomes important in assessing learning outcomes, children's achievement (MLLs) and gaps in learning by students. There are two aspects of time - time required for learning and time provided for learning. The latter refers to what extent the time given by the children is actually used by the teacher in various kinds of teaching - learning activities. This is termed as 'opportunity time'. How effectively this available time is utilized by teachers is equally important. The basic assumption therefore is that the utilization of time by students depends on teachers. Therefore, the physical presence of the teacher becomes very important.

In order to assess and calculate opportunity time the following information would be required from each school.

- Number of days the school was functioning in one academic year.
- Number of teachers in the school.
- Number of classes each teacher handles (monograde - multigrade - single).
- Teachers' attendance which depends on the presence of the teacher in terms of
 - leave taken (casual, medical)
 - time of coming and leaving school
 - time taken up for other activities during school timings (training programmes, survey, census etc.)

This information will indicate how many teacher days are lost to the school, which is vital in calculating opportunity time.

Opportunity time can be assessed, by aggregating the number of teacher days lost to the school, based on counting the teacher - less days spent by different classes/groups/

sections and dividing it by the number of learning groups. This provides an average measure of opportunity time.

In some primary schools there may be two or three teachers taking four/five classes on in an upper primary setup three to four teachers taking seven/eight classes which is commonly termed as a multigrade situation. In such situations, it is important to observe and collect information on what happens to each of the learning groups/classes as one group may be idling or waiting their turn while the teacher deals/interacts with the other group. This provides the necessary correction for available teacher days per learning group/class.

Since availability of time and its effective utilization by every teacher is a basic input in children's learning, information on this aspect will facilitate better planning in terms of the authorities/teacher focusing on:

- Organising and engaging all learning groups in planned activity.
- Type of teaching-learning tasks to be given for different classes - subject areas.
- Gainfully engaging children in different tasks either individually or in groups.
- Allocating time outside school hours for other duties/activities to be carried out by the teacher.
- Organising training programmes in such a way that a minimal amount of opportunity time is lost.

Curriculum

The curriculum followed in the school is one of the most important determinants of the quality of education. The development of curriculum is a continuous process to suit the emerging learning needs of the children within the broad frame-work of the National Policy on Education. Based on the National Policy on Education, 1986 the National Council of Educational Research and Training (NCERT) developed a "National Curriculum for Elementary and Secondary Education: A Framework", which is still being followed in the states in its original form or modified form to respond to state and local specific contexts and needs. A curriculum generally takes into account the socio-cultural, political and economic considerations as well as incorporates

some important pedagogical aspects. The NCERT is presently in the process of developing a revised curriculum framework for the school stage of education which is likely to have an impact on the present curriculum.

Under the SSA, the focus has been on making the curriculum for elementary education more and more contextual, adopting a holistic approach to educational development by incorporating knowledge, skills, values, etc. relevant to the child's life situation. In this context, it is visualised that the process of curriculum development may be decentralised upto the district level. Two major challenges are likely to be faced in the process of curriculum planning and implementation. First, to decide the extent of decentralisation and evolve the methodology for the same and the second, to adopt a flexible mode of curriculum reform so as to accommodate the elements visualised in the curriculum framework being developed by the NCERT.

In order to plan for curriculum reform, information on some important aspects needs to be collected. These include the following:

1. Existing curriculum - class-wise, stage-wise and subject-wise (for both cognitive and non-cognitive aspects)
2. Strategy being followed regarding curriculum development and modification.
3. Human resources (expertise) available for curriculum reform exercise.
4. Medium of instruction - general, for special groups and minorities, etc. if any.
5. Language taught at the primary and upper primary stage.
6. Assessment regarding the relevance of the curriculum.
7. Curriculum load.
8. Problems faced in curriculum planning and transaction.
9. Perception of different categories of people-community, teachers, pupil, etc. regarding suitability of the present curriculum and their expectations.
10. Textbook production and distribution.

The information pertaining to the present curriculum and related aspects can be obtained from the schools and education offices. The information related to the perception of people,

suitability of curriculum, curriculum load, etc. shall have to be collected through focus group discussions with different types of groups and interaction with those involved in education. The information collected through various sources and techniques should be better utilised for planning the activities for curriculum reform, better utilisation of the existing human resources and identifying such resources that are needed etc. This will also help in determining the type of changes required in the curriculum and modalities for achieving the same. Since SSA covers both the primary and upper primary stage of education, the aspects concerning the smooth transition of students from the feeder primary schools to the upper primary schools shall have also to be thought of.

Teaching-Learning Material:

Teaching-learning material are the actual vehicle that carries the curriculum to the child. It also opens the scope for learning to know, learning to do and learning to learn for the learner. Teaching-learning materials include textbooks, work-books, teachers' guide, teaching aids, learning aids (concrete material), educational kits, supplementary reading material, usable blackboard, which are directly/indirectly used in the classroom situation. Out of all the above mentioned material it has been observed that the textbook is the main or sometimes the only tool which is available and is being used for teaching-learning. The holistic and comprehensive use of a total teaching-learning package will not only open the avenue for better interaction of the teacher with the teacher and material but also improve the standard of quality learning in schools. Since the teaching-learning material plays a crucial role in actual curriculum transaction both at the primary and the upper primary stage, it becomes necessary to assess the type, availability, suitability and usability of various material. The data needed that may have either a direct/indirect bearing on the quality of education, which needs to be collected, should be done at the school level in terms of:

1. Black Board
 - Class-wise availability
 - Usable condition
 - Frequently of use by teachers and children

2. Textbooks
 - Student-friendly in terms of content, language, activities.
 - Teacher-friendly in terms of learners level, context and scope for flexible use with different groups of children.
3. Workbooks
 - Availability (subject-wise)
 - Student-friendly in terms of language, individual and group activities, visuals
 - Frequently of its use.
4. Teaching-Learning Aids
 - Availability
 - Frequency of its use by teachers and students
 - Display material and its use
 - OB material and its use
 - Kits and its use
5. Teacher's Guides
 - Availability (subject wise)
 - Usefulness (planning, transaction and assessment)
6. Supplementary Reading Material
 - Availability
 - Frequency of use by children
 - Enriching the subject content in textbooks.

All this information may be collected at the school level through classroom observation, interviews (teachers, students), focus-group-discussions, which will definitely facilitate the planning for quality standards.

All the data mentioned above will facilitate in contextual planning particularly at the district level for:

- Developing need-based teaching-learning material;
- Opening scope for using local specific material;
- Involving teachers in developing in material;
- and
- Providing scope for capacity building of teachers.

Classroom Processes:

The teaching-learning process or classroom interaction is a focal point of the school system. It is the classroom that provides

the setting for all teaching-learning and an opportunity to the child for exploration, experimentation and communication. The more effective the classroom processes better the learning outcomes. It is imperative to know therefore how classroom transactions are conducted and managed, what is the status of classroom environment, what are the various teaching-learning strategies used by the teacher in classroom transaction, etc. Some of the vital aspects of classroom processes are:

- Classroom climate (including physical and social)
- Classroom organization and management (sitting arrangement, layout, organization of teaching-learning groups, display of materials and usability)
- Teacher Pupil Ratio.
- Teaching strategies adopted.
- Use of Teaching-Learning Aids.
- Children's participation in classroom activities (Verbal/non-verbal)
- Facilities available for Teaching-Learning
 - Furniture/sitting facility.
 - Number of classrooms (adequate/inadequate).
 - Space outside classrooms for activities.

The above information can be collected through various strategies such as classroom observations, interviews/interaction with teachers and children, focused group discussion with teachers and head-teachers at the school level in different contexts.

The above information will help in :
School-wise planning :

- Improving interventions for all aspects of classroom processes;
- Identifying trainin of requirements/inputs for teachers and head-teachers; and
- Identifying areas for capacity building of supervisors.

Evaluation-Learning Achievement

Evaluation is an integral part of the teaching-learning process. Teaching cannot and should not continue without taking stock of whether what is taught has been imbibed /

learnt by the children or not. Therefore, for the purpose of ensuring meaningful learning evaluation assessment becomes an essential part of the teaching-learning process. In order to understand and arrive at a clear picture of the evaluation process adopted in schools it is necessary to collect the following information on:

- Polity adopted in the state-district;
- Type of practices/procedures adopted for evaluation;
- Periodicity of evaluation;
- Recording procedures used in schools;
- Feedback mechanisms used by teachers if any, especially for informing parents;
- Involvement of parent, VEC and community *vis-a-vis* assessment and monitoring of the child;
- Process of taking corrective measure; and
- Evidence of change in the evaluation procedure based on feed back.

It needs to be emphasized that not only is the outcome of evaluation important but the entire process adopted is equally so. It is also necessary to assess from time to time children's progress not only in cognitive areas, which is normally attended to but also non-cognitive as well.

Since evaluation basically focuses on outcomes of learning by children, measuring learning achievement becomes essential. Thus in the foreseeable future, strategies for raising learning achievement will need to focus on improving the quality of education in schools. Increasing/improving learning achievement requires building on knowledge about the factors that effects the child's learning. Some of the indicators of achievement are: entry level of the learner at primary and upper primary stage, opportunity time, teachers' subject knowledge and experience, training inputs, which have been discussed earlier.

The sources from which the information could be compiled on the above mentioned indicators are school records, teachers' interviews, pupils' assessment and evaluation records, etc. Information collected in the above areas will facilitate in:

- Identifying the gaps in the evaluation strategies developing new and improved strategies, for enhancing learners' achievement.
- Adapting and improving upon existing assessment and evaluation tools.

Section II

In Section I of this paper, an attempt has been made to identify some important indicators which are directly/indirectly related to the 'Quality' aspects of elementary education as well as broad issues to be addressed in planning for improving these aspects. However, it is realised that in order to help the planners, some tips regarding the steps and processes to be followed in the planning process may also be provided which is the focus of this section.

In the process of planning for improving the quality of education it is necessary that the district has detailed information regarding the issues raised under different areas in Section I of this paper as well as direct specific issues relating to these aspects. This information provides a world view of the present status of quality aspects. The status needs to be clearly reflected in the plan with the help of tables on various aspects along with an analysis of the tables in such a way that this does not remain a routine analysis but explains in clear terms the existing scenario of quality issues. In addition information pertaining to those aspects which not reflected through the tables may also be highlighted.

The next step is to identify the grey areas of problems which have an impending effect on the improvement of quality of education. This process will be based on the analysis of the present status reflected through the tables and narrations. It is also necessary that the problems are categorised in such a way that it helps decision making with regard to addressing some problems immediately and the others later on. This exercise needs to be done very carefully as it will form the bases for visualising and planning future activities.

The information regarding enrolment, retention, physical facilities in schools etc. can be obtained without much difficulty as these are available in all schools but information which is more qualitative in nature is not easily

obtainable. For this purpose a few important methods that may be followed are:

Focus Group Discussion (FGD) : Discussion with different categories of persons who are involved or concerned about the education of children, such as community members/parents, women's groups, head-teachers, teachers, officials, etc. may be organised. The discussion with such persons is normally held in a routine way, but in FGD, it is more planned and focused exercises. Identification of persons for FGD is one of the most important steps. Before a FGD is conducted the issues/points to be discussed with the members have to be noted and the sequence of discussing them may be worked out. The persons who conduct the FGD should ensure that all the members of the group get an opportunity to participate in the discussion so that it is not driven by a few vocal or dominating members. The outcomes of the discussion may be noted and used in the planning process.

Action Research : Some action research on different aspects of quality for which data is not available and which can be completed in shorter duration may be undertaken with the help of SCERT, DIET, personnel from education department or even specified institutions and individuals. However, it is likely that some studies may take a longer period of time, hence without waiting for the findings of such studies, planning exercise may be undertaken. The plan can be modified later. These studies will provide relevant qualities data for planning.

Achievement Tests : Achievement tests of students are helpful in obtaining the baseline information about this aspect and visualising suitable interventions for improving the achievement level of students. When we talk of the achievement, generally we tend to take up this test with the help of well developed achievement tests, which is very useful. However, at this juncture, some informal and

oral tests of students can also be used to provide some relevant information.

School Records : Important information pertaining to the transition rate, pupil's performance on the basis of examination conducted and other related aspects may be obtained from the school records.

Observations : Observations both participatory and non-participatory provide information about many aspects, such as communication skills of children, classroom transaction, teacher-pupil interaction etc. which are helpful in planning quality aspects of education. This method is also effective in verification of information already being collected through FGD and other sources.

The interventions or activities to achieve the quality of elementary education needs to be visualised on the basis of information gathered with the help of sources and methods indicated above. Some of the activities may be undertaken and completed in one year only but there will be many which will spill over to subsequent years and are more continuous in nature. Therefore a clear indication of the duration and strategies for implementation of activities may be given in the plan. Another aspect which needs attention is the prioritisation of activities. It is desirable that a perspective plan is developed addressing the nature of activities, strategies to undertake them, expected outcomes etc. within a given time frame. Also, while planning the quality related interventions, capacity of the district project team with the district planned for undertaking activities, academic help needed, phasing of activities, academic help needs, phasing of activities etc. should also be clearly assessed, visualised and incorporated in the plan.

It is also suggested that the plan may finally be shared with all concerned particularly the teachers to make it more realistic, contextual and implementable.

Education Guarantee Scheme in Madhya Pradesh, Innovative Step to Universalise Education

by

R. Gopalakrishnan
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The success of the Education Guarantee Scheme (EGS) initiated by the government of Madhya Pradesh last year has few lessons to teach. In sharp contrast to the all round failure of the centrally planned schemes for universalisation of primary education, the EGS, which guarantees primary schooling facility on a demand from a community lacking it, has proved not only cost-effective but has reached hitherto unreached sections of society in the quickest possible time without compromising any of the basic requirements for quality. Moreover, by making the community and the gram panchayat the nodal points in executing the scheme, the EGS forges partnership between state governments, panchayats and communities, thus destroying the distinction between supply agency of the government and demand agency of the people, an idea that has hindered the spread and quality of primary education.

I

Introduction

On January 1, 1997 the government of Madhya Pradesh, pioneered a community centred, rights based initiative to universalise primary education called 'Education Guarantee Scheme' (EGS). Under the scheme, the government guaranteed the provision of a teacher, her or his salaries, training of teacher, teaching-learning material and contingencies to start a school within 90 days wherever there was a demand from a community without a primary schooling facility within 1 km, provided this demand came from at least 25 learners in case of tribal areas and 40 learners in case of non - tribal areas. The community that made the demand could also suggest the name of a suitable local resident to be the teacher and be called "gurujji". The gram panchayat is empowered to appoint such a gurujji after the chief executive officer of the janpad (block) panchayat, had verified the bona fides of the demand and the qualifications of the gurujji proposed. The training of the gurujji would be organised by the district administration which would also credit the amount of annual salaries upfront in the gram panchayat's bank account. The local community or gram panchayat was expected to come up with the provision of space for teaching-learning. While the government ensured the critical basic inputs for transacting primary education (here defined as the teacher and his or her salaries, training, teaching-learning material, contingencies and academic supervision), the community shared the task of universalising primary education by its contribution to creating the demand, identifying the teacher and providing the

learning space. The EGS was, in short, an effort of the state government to universalise access to schooling facility focusing on the hitherto unreached sections in the quickest possible time and thereby convert the rhetoric on universalisation of primary education into a reality in Madhya Pradesh.

Section II locates the context which provoked the government to innovate an EGS. Section III reviews the results of the scheme in its first year of operation. Section IV discusses the perceived strengths of the scheme while Section V discusses some apprehensions raised about the scheme and the road ahead.

II

EGS : Context

Inability to universalise primary education is today acknowledged to be independent India's most grievous lapse, a sad story of wasted minds and the unused creative potential of our people. From the national commitment in 1950 to ensure universalisation in the 'next ten years' to the latest efforts to make it a fundamental right and estimated to be requiring 40,000 crore at the national level, this target has been an elusive one and a particularly daunting one for educationally backward states like Madhya Pradesh. In such states the size of the problem stated in simple terms of providing primary schooling facilities and consequent demand for resources was of a scale that it tended to demotivate serious time-bound planning. This in turn dissolved political will to universalise primary education. The rhetoric of compulsory primary education became an escape route to which commitment was sought

to be created in principle without matching it with resources. There was an immediate need to explore more radical alternative unconventional but simple and practical. This meant that time and cost became important. Costs needed to be reviewed by closely analysing critical inputs into primary education so that its universalisation could be effected quickly.

The EGS recognises the urgency of time; that generations of children have wasted away waiting for primary schooling facility. This is sought to be accounted for by fixing a time in the scheme of 90 days to respond to any demand from a community deprived of the facility. If there is any community without a schooling facility within 1 km which is the stipulated norm, the state government guarantees to start an EGS school in 90 days. This crashing of the time frame forces the implementing agencies to undertake this exercise in a campaign mode. The response to the scheme in the first year of operation in Madhya Pradesh indicates the unfulfilled demand for primary education that existed even in remote tribal areas of the state. It reveals the hollowness of much academic writing on low paternal motivation as inhibiting primary education as yet more instances of balm on the victims.

The EGS reduces costs of delivering primary education by re-examining the critical basic inputs required for transacting education. The critical inputs identified are a teacher who is a local resident, training of the teacher, teaching learning material, some amount for contingencies, and academic supervision. The community is expected to come up with provision of space for learning. As may be seen from Table 1, the annual cost of operating an EGS school works out to just Rs. 8,500 in Madhya Pradesh and shows the cost-effective

Table 1 : Unit cost per EGS school per year.

Item	Costs (in rupees)
Honorarium of Guruji @ Rs. 500 per month	6000
Induction training (12 days)	610
Contingency for the EGS school	850
Books @ Rs. 25 per child for 40 children	1000
Administrative contingency expenditure	40
Total	8500

nature of the scheme. It does this without compromising any of the basic requirements

for quality.

The EGS is premised on decentralised management. Historical experience reveals that centralised models of delivery delayed the spread of primary education even where resources were identified. The emergence of working panchayat raj system consequent on the 73rd Constitution Amendment provides opportunities that need to be seized to share the task of universalisation of primary education with community mediated through panchayat raj institutions. In Madhya Pradesh a 'Lok Sampark Abhiyan' or a door-to-door survey was undertaken jointly by panchayat leadership, teachers and literacy activists in 19,978 panchayats in 1996 for a detailed identification of children not going to school and to follow it up with an enrolment drive. This led to the development of decentralised panchayat level plans of primary education and for the first time created an alternative peoples' information system on primary education. This survey also led to a detailed mapping of the gaps in access to schooling facilities. In addition to coalition building for primary education between panchayats, teachers and literacy volunteers, the survey created leadership roles for panchayats in the management of primary education and provoked policy-makers to quickly respond to the gaps in access. The EGS was created in response to this need with an understanding of the potential of collaboration and leadership at the village and panchayat level. In the EGS community demand, was the start up point and the gram panchayat became the key agency to respond to the demand and arranging for space for teaching-learning, appointing teachers, and looking after the development of the school. The EGS reinterpreted the definition of the responsibility of the state to provide universal primary education by enlarging the understanding of state to mean not only government at the state level but local government or panchayat and the community.

The quick and massive demand for EGS made clear that the centrally-sponsored scheme of non-formal education (NFE) though conceptually oriented to assist in universalising access to schooling facilities had failed to do so. With 34,000 NFE centres, the state still had over 20,000 unserved habitations. It emerged that to a large extent NFE centres had come up in villages where government schools already existed as may be seen from Table 2.

This was particularly so in the tribal districts of the state. Non-formal education schemes had served the purpose so far as theoretically accounting for access where none existed. Most evaluations have shown NFE as a failure mainly stemming from the fact that this was a centrally planned scheme with very little local accountability. The proposal of an NFE centre is made by the deputy director of education, district head of the education department in the district and approved by the state government with the role of the gram panchayat limited to ratifying official proposals.

Table 2 : Villages with non-formal education centres and primary schools in 34 DPEP districts

District	Villages with Only NFE	Villages with NEF and Primary Schools	Villages with no Schooling Facility
Betul	5	252	232
Raisen	107	230	219
Rajgarh	35	105	470
Sehore	26	176	109
Bilaspur	9	431	731
Raigarh	6	255	943
Surguja	47	1089	143
Guna	152	194	402
Dhar	0	24	93
Rajnanadgaon	104	765	412
Rewa	109	328	908
Satna	36	291	481
Shahdol	13	215	92
Sidhi	50	244	700
Chhatarpur	58	130	216
Panna	33	170	401
Tikamgarh	4	82	359
Mandsaur	41	240	390
Ratiam	28	122	131
Bastar	25	503	898
Bhind	26	218	162
Dewas	27	228	86
Damoh	109	323	312
Datia	30	202	48
Jhabua	23	173	279
Khandwa	19	264	185
Khargaon	5	208	310
Mandia	11	1473	139
Morena	24	247	268
Rajpur	47	551	392
Seoni	53	369	428
Shajapur	25	211	56
Shivapuri	119	338	116
Vidisha	183	97	523
Total	1599	9948	11628

Source : Lok Sampark Abhiyan, 1996.

In contrast, the EGS converts accountability from being upward to being outward to the community. Here the gram panchayat and the community play the key roles in creating the demand, locating the teacher, arranging space, paying the teacher and managing the school. Government resource support for salaries, etc., is vested with the gram panchayat. The fact that a large measure of demand came from habitations where NFE centres were sanctioned is a commentary on the dysfunctional nature of the NFE scheme in providing effective schooling.

The Lok Sampark Abhiyan also disclosed the fact that in Madhya Pradesh the tribal areas were the most disadvantaged in terms of poor provision of primary schooling facilities. The habitation pattern of tribal areas where people lived in dispersed habitations variously called 'majra', 'tola' 'phalia' etc., meant that even if a school came up in one hamlet in the village, many children living in the several hamlets of the same village could not access it because they were often as much as 5 km. away from the main village. This accounted for the very low status of primary education and literacy in tribal areas and needed to be responded to through an area-specific strategy. The EGS by scaling down the norm from 40 to 25 children to start an EGS school in tribal areas was seeking to respond to this need of tribal habitations out of the reach of the formal schooling system.

III

EGS : Experience of One year

The EGS has now been in operation in Madhya Pradesh over one year since January 1, 1997. The performance of the scheme is evident from the fact that on an average more than 40 primary schools came up each day of the year in Madhya Pradesh through EGS in 1997. Table 3, which shows that in the first year of operation, 15,568.

Table 3 : EGS schools opened from January 1, 1997 to January 1, 1999 in Madhya Pradesh

District	Percentage of Tribal Population	No. of EGS Schools
Betul	37.5	230
Raisen	14.4	183
Rajgarh	3.3	242
Sehore	10.2	70
Bilaspur	23.0	327
Raigarh	47.7	521
Surguja	55.7	508

Guna	12.0	456
Dhar	53.5	874
Rajnandgaon	25.2	118
Rewa	12.4	108
Satna	13.0	389
Shabdol	46.3	635
Sidhi	30.4	765
Chhatarpur	3.8	137
Panna	14.9	171
Tikamgarh	4.1	184
Mandsaur	4.8	76
Ratiam	23.3	188
Bhind	0.3	148
Morena	5.6	242
Shivpuri	11.3	357
Datia	1.7	51
Mandia	60.3	705
Seoni	37.0	268
Vidisha	4.4	219
Shajapur	2.4	89
Dewas	15.0	126
Khandwa	26.8	200
Damoh	12.4	243
Rajpur	18.3	531
Khargwan	46.2	1688
Jhabua	85.7	1173
Bastar	67.4	861
Balaghat	21.9	352
Gwalior	2.9	386
Bhopal	3.1	110
Narsinghpur	12.9	163
Hoshangabad	17.4	136
Indore	5.5	114
Chhindwara	34.5	446
Ujjain	2.1	67
Jabalpur	17.9	481
Sagar	8.5	140
Durg	12.4	90
45 districts		15568

EGS schools came up in the state is also indicative of the fact that most of these schools have come up in the tribal districts of the state justifying the assumption that majras, tolas and phalias, in many tribal villages lacked schooling facilities. The scheme has evoked an overwhelming response as it was seen to be simple to operate, gave effective control to the local community and did not lose out on any of the vital attributes of good primary education.

Over six lakh children have already enrolled into these EGS schools. A sample from 31 districts on enrolment, Table 4 shows that girls and children belonging to the scheduled tribes and scheduled castes have much higher shares in enrolment reinforcing

the rights of the people and areas that have been hitherto left behind in the task of universalising primary education. As may be seen 68 per cent enrolment has been of children belonging to scheduled tribes and scheduled castes and of all children enrolled only 45 per cent are girls.

IV

Strengths of Education Guarantee Scheme

Firstly, the scheme has helped Madhya Pradesh to universalise access to primary education in the quickest possible time. The open-ended nature of the guarantee ensures meeting of future demand and thereby reinforces the right to universal primary education. Madhya Pradesh is now poised to ensure universalisation of access to primary schooling facility within 1 km. of child's residence by July 1998. It may be important to mention here that the externally assisted District Primary Education Programme (DPEP) which funds universalisation of primary education in 34 out of 45 districts of the state with a financial outlay of over Rs. 1000 crore creates only 11,000 new schools in the state whereas the EGS has already created 15,568 schools in one year. In the DPEP districts of the state also universalisation of access becomes possible only by complementing DPEP with EGS.

Secondly, the EGS has proved to be a cost-effective strategy to reach primary education without compromising quality. It has been able to take care of quality requirements like training, improved teaching-learning material and academic supervision even at this low level cost of Rs. 8,500 per annum.

Thirdly, EGS has helped recreate a desirable organic link between the teacher and the community. The EGS guruji being selected by the local community and appointed by the gram panchayat, strengthens local accountability that can contribute to improving primary education dramatically. This link opens up several possibilities for realising the community outreach role of the guruji.

Fourthly, EGS has by effectively responding to the specific habitation pattern in the tribal areas of the state created parity for tribal areas in terms of access and thereby contributed to equity in the spread of primary

education. Table 5 which compiles sample data of location of EGS schools in 31 districts indicates that over 63 per cent of EGS schools in these districts have come up in tribal areas.

Fifthly, the EGS holds a real potential of becoming the first building block towards a genuine alternative community centred learning by forging a partnership between state government, panchayats and communities for both primary education as well as for larger community - based initiatives for education for all. In the days to come, as panchayat raj gains in strength, this together with the district - based initiative of the DPEP ought to be able to leverage the management of the entire primary education sector towards panchayat management at district and below-district levels in MP. When that having off of the primary education sector for panchayat level management comes about, the EGS is correctly poised to be its local building block.

Sixthly, through such a lateral initiative the EGS has served to undercore that universalising primary education is less a matter of finding money and more a matter of forging alliances of the right kind. There is a lesson in this that external financial resources like those of DPEP in themselves may not be the solution to

meeting this basic need as they tend to be cost - intensive and such one-time injection of funds may not ensure sustainability.

V The Road Ahead

The EGS has by now attracted widespread notice among academicians and policy planners. While there is a general endorsement of the EGS as a valid intervention to universalise primary education quickly, certain apprehensions are raised about its future. The two major apprehensions that are generally raised by some academics about the scheme are first whether such an intervention will reduce the will of the state to extend 'formal' primary schooling to areas covered by EGS, and second whether this will result in the creation of a two track system, one set of formal schools and another set of community - managed EGS schools. Yet another view is that the government of India is anyway planning for compulsory primary education. The perspective that informs these apprehensions is that of the government as the sole provider of primary education which is that an intervention like the EGS interrogates.

On the apprehension whether the EGS

Table 4 : Enrolment status in EGS schools : Sample Data of 31 districts

Districts	EGS Schools	Total Enrolment	SC Enrolment	ST Enrolment	SC/ST as Percentage of Total Enrolment	Girls Enrolments	Girls as Percentage of Total Enrolment
Betul	184	6091	686	4472	84.7	2916	47.9
Raisen	108	4070	889	1826	66.7	1963	48.2
Rajgarh	197	9441	176.3	665	29.8	3636	43.1
Sehore	70	2169	788	945	62.6	1240	44.8
Bilaspur	610	23759	4338	12925	72.7	11243	47.3
Raigarh	166	14827	1145	11477	85.1	6995	50.4
Surguja	466	14827	1145	11466	85.1	6995	47.2
Guna	262	12016	2424	5030	62.0	4633	38.6
Dhar	648	22970	912	21397	97.1	9770	42.5
Rajnandgaon	115	3919	280	2660	75.0	1907	48.7
Rewa	131	6330	1552	2087	57.5	3158	49.9
Satna	326	15295	4303	5042	61.1	7301	47.7
Shahdol	907	25586	4436	15523	78.0	12663	49.5
Sidhi	363	15450	2942	5628	55.5	7292	47.2
Chhatarpur	121	4971	1151	1013	43.5	2184	43.9
Panna	148	6393	2186	1949	64.7	2845	44.5
Tikamgarh	180	6978	1732	980	38.9	3273	46.9
Mandsaur	77	3525	603	399	28.4	1669	47.3
Ratlam	173	6629	819	4941	88.4	2780	41.9
Bhind	41	1816	724	278	55.2	758	41.7
Dewas	80	3475	604	1739	67.4	1471	42.3
Datla	70	3222	662	365	31.9	1306	40.6
Khandwa	193	7823	479	4969	69.6	2607	33.3
Khargaon	173	6135	627	5154	94.2	2651	43.2
Rajpur	277	3730	442	2153	69.6	1762	47.2
Shajapur	87	2349	747	149	38.1	1078	45.9
Bhopal	23	580	202	151	60.9	226	39.0
Durg	98	3387	630	956	46.8	1715	50.6
Gwallir	311	13578	4016	3147	52.8	5696	42.0
Hoshangabad	155	6031	782	3477	70.6	2793	46.3
Indore	119	5419	1761	2319	75.3	2469	45.6
Total	6779	2525556	45373	126861	68.2	114517	45.3

Table 5 : Distribution of EGS schools in tribal areas : Sample Data of 31 districts

Districts	Percentage of Tribal Population	EGS Schools	EGS Schools Located in Tribal Areas	Percentage of EGS Schools Located in Tribal Areas
Betul	37.5	184	160	87.0
Raisen	14.4	108	65	60.2
Raigarh	3.3	197	0	0.0
Sehore	10.2	70	37	52.9
Bilaspur	23.0	610	475	77.9
Raigarh	47.7	166	99	59.6
Surguja	55.7	466	466	100.0
Guna	12.0	262	76	29.0
Dhar	53.5	648	647	99.8
Rajnandgaon	25.2	115	101	87.8
Rawa	12.4	131	39	29.8
Satna	13.0	326	60	18.4
Shahdol	46.3	807	773	95.8
Sidhi	30.4	363	177	48.8
Chhatarpur	3.8	121	1	0.8
Panna	14.9	148	77	52.0
Tikamgarh	4.1	180	34	18.9
Mandsaur	4.8	77	0	0.0
Ratlam	23.3	173	116	67.1
Bhind	0.3	41	3	7.3
Dewas	15.0	110	31	28.2
Datia	1.7	70	70	100.0
Khandwa	26.8	193	193	100.0
Khargaoon	46.2	173	156	90.2
Rajpur	18.3	277	169	61.0
Shajapur	2.4	87	0	0.0
Bhopal	3.1	23	20	87.0
Durg	12.4	98	65	66.3
Gwalior	2.9	311	123	39.5
Hoshangabad	17.4	155	3	1.9
Indore	5.5	119	43	36.1
Total	19.0	6779	4279	63.1

schools will become a lasting substitute for formal schools in deprived areas and indirectly reduce the state resolve to expand the formal system into these areas, the issue becomes one of privileging the formal system of bureaucratically managed primary education as inherently superior. It is time to crack open the box of 'formal' primary education as defined and delivered by government-managed educational bureaucracies to identify its key constituents. The key constituents are centralised management, state-level teacher cadre, limited or no accountability to communities or panchayats, substantial investment in building construction standardised educational management in terms of teaching-learning material, training and academic supervision. It may even be argued that these formal schools are 'superior' only as local appendages of a large bureaucratic system and not in terms of their software of educational transaction or community process. The EGS schools by identifying and incorporating the critical basic inputs of good primary schooling in terms of teaching - learning material, training and academic supervision build in superior community oriented attributes like community selection

inputs like free improved teaching-learning material and mid-day meals. The only attribute which may be seen to disadvantage the EGS school today is that it functions out of a space / building provided by the local community to conduct teaching - learning. Conceding that the nature of that space also, along with several other attributes ; has a role in ensuring quality, the EGS schools may need to be enabled to improve the learning spaces. It is interesting here that when communities started EGS schools, they have been able to find local buildings to house many of these schools as may be seen from Table 6.

The challenge in Madhya Pradesh today is to enable the EGS school to gain those desirable attributes of a formal primary school in a way, that does not negate the spirit of community-centredness which is its starting point. This would basically mean that in the future, creation of those attributes will have to be done in a shared manner between government, panchayat and the community. This would also mean that the nature of that resource support by government will have to be sensitively managed - it should go as enabling grants to panchayats and not as direct

of teacher, local residence of teacher, gram panchayat management, potential for outreach etc., Most evaluations of primary education have shown that it is the lack of accountability of the teacher to the community that has been the major cause for poor performance and so the EGS may result in strengthening the primary education sector as a whole by bringing in greater community control while retaining other desirable attributes of formal school. The EGS schools have already ensured quality parameters like training (on par with the formal schools), cluster-level academic support and supervision, and supply of

government interventions. Currently, the government of Madhya Pradesh is engaged in locating funds to be given as seed funds for improving teaching - learning spaces from which these can be made available. To list a few of them, apart from funds of the education department and the DPEP, there are schemes like the JRY, EAS, special central assistance to tribal areas, State Finance Commission funds for social infrastructure of panchayats, grants from the Tenth Finance Commission for strengthening panchayats etc., that can contribute to this. The government would find it is relatively easy to muster funds by adopting a decentralised mobilisation of funds at the district level and by end 1998 all the EGS schools in the state can be expected to have adequate funds to improve their learning spaces. The objective of the EGS is to mobilise the panchayats to attempt at creating better primary schools than the formal schools that exist today in the system. Here again the addition of a physical attribute of a new building opens up the possibility to innovate a methodology of action through which the construction of the building takes on the nature of a 'process' and not the delivery of a 'product'. The EGS being a community initiative can imaginatively engineer the construction of the building as a participative activity that reinforces collective action for primary education.

As regards expansion in terms of higher classes, the EGS schools could grow into a school that offers education up to Class 5 of the formal school. This will mean incremental addition each year as well as meeting the demand for more teachers and ensuring training especially multi-grade training. When the school evolves to Class 3, a new guruji preferably a woman is proposed to be added on. The scheme also plans to provide for the panchayats to add on to the salary of the guruji from panchayat's own resources. This will bring in a differentiated pay scale which will serve to militate against any future cadre building by gurujis. The EGS schools need not therefore be 'second-best' to the formal system but improvements on the formal system.

The second apprehension is whether the EGS creates a two-track system. Today what we witness in the governmental primary schooling system is in reality a two-track system of a 'sarkari' primary school with no local accountability and a dysfunctional non-formal education centre that exists mostly on paper. The only way to bring the two tracks together is through the learning community by creating a community-centred primary school which the EGS is all about. It destroys the distinction between a supply agency of government and a demand agency of the people, an idea that has hindered the spread and quality of primary education.

Table 6 : Learning space provided by community for EGS schools ; Sample Data

Districts	EGS Schools Community	EGS Schools Located in Arranged by Community	Buildings Provided by	Government Buildings	Open Space
Betul	184	160	155	11	8
Raisen	108	65	61	14	18
Raigarh	197	0	112	13	68
Sehore	70	37	45	6	18
Bilaspur	610	475	426	41	90
Raigarh	166	99	138	21	7
Surguja	466	466	136	330	0
Guna	262	76	59	8	154
Dhar	648	647	416	32	179
Rajnandgaon	115	101	81	8	26
Rawa	131	39	63	6	46
Satna	326	60	279	7	41
Shahdol	807	773	344	5	453
Sidhi	363	177	203	31	113
Chhatarpur	121	1	13	7	88
Panna	148	77	12	4	87
Tikamgarh	180	34	94	5	91
Mandsaur	77	0	27	19	31
Ratlam	173	116	58	7	103
Bhind	41	3	6	0	31
Dewas	80	31	35	4	41
Khargaon	173	156	100	11	32
Raipur	277	169	160	26	10
Bhopal	23	20	11	2	5
Gwalior	311	123	29	37	224
Indore	119	43	56	7	56
Total	6176	3948	3108	662	2022

There could be a related apprehension of equity raised in some quarters that EGS which is now extending primary education to hitherto unserved areas is doing this at much lower costs and therefore by implication these areas are getting less out of the government. The premise seems to be that putting in the same costs will somehow ensure equity. Equity seems to be seen here in a narrowly financial sense and the fact that governmental interventions with equal resources have given

poorer results in many of our backward and tribal areas point to the fact that the idea of equity needs a larger definition that involves community control. The key issue ought to be 'equality of what'. Borrowing money at areas does not necessarily improve them. The argument here is not that these areas should get less funds but that they should not be made to wait for schooling for their children for want of funds. Instead an EGS school recognises and guarantees their right and through their enterprise creates their school while retaining the enabling role for the government.

The debates on individual rights *vis-a-vis* community rights and the one between capital and community do have a bearing on an idea like the EGS when it is to be seen in comparison with a seemingly more radical position ; like enacting a law on compulsory primary education. Many rights in the Indian context are to be nurtured by the state and are not to be understood as arbitered by a neutral state or as rights of the citizens against encroachments by the state. It is unrealistic to think of illiterate poor parents being prosecuted for not sending children to school and so what is seemingly radical in theory may be unworkable in practice. The state has the responsibility to generate demand and provide basic facilities, which is what the EGS does. The panchayat system is being utilised to create community demand and enabled to respond to demand with financial assistance from the state. The guarantee in the EGS is currently non-justiciable as it is seen to be existing the consensus between state, panchayats and communities. It does not separate the abstract domain of rights from the actual domain of life in civil society. The EGS sees the state as not only government but as inclusive of local bodies and the community all of which come together to ensure that children do not wait endlessly for primary education. Educationists and policy-makers have the freedom to engage in scholastic catharsis while their children go to some of the best schools in India. This freedom is not there for the poor in India and the EGS is most of all about the urgency to respond to their need. Fifty years into our independence and with reportedly two-thirds of the girl children out of school in some of

India's more populous states, it is more than time to heed the words of Mahatma Gandhi ; "That does not finish the picture. We have the education of this future state. I say without fear of my figures being challenged successfully that today India is more illiterate than it was 50 or 100 years ago, and so is Burma because the British administrators when they came to India, instead of taking hold of things as they were began to root them out. They scratched the soil and began to look at the root, and left the root like that and the beautiful tree perished. The village schools were not good enough for the British administrator so he came out with his programme. Every school must have so much paraphernalia, building and so forth. Well, there were no such schools at all. There are statistics left by a British administrator which show that in places where they have carried out a survey, ancient schools have gone by the board because there was no recognition for these schools and the schools established after the European pattern were too expensive for the people, and therefore they could not possibly overtake the thing. I defy anybody to fulfil a programme of compulsory primary education of these masses inside of a century. This very poor country of mine is ill able to sustain such an expensive method of education. Our state would revive the old village schoolmaster and dot every village with a school for both boys and girls" (Mahatma Gandhi at Chatam House, London, October 20, 1931). The EGS of Madhya Pradesh is a step in this direction.

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राष्ट्रीय बाल श्रम नीति - 1987

भाग - 1

प्रस्तावना

1.1 भारत के संविधान में, राज्य नीति के निर्देशात्मक सिद्धान्तों और मौलिक अधिकारों के एक भाग के रूप में यह निर्धारित किया गया है कि राज्य अपनी नीति का संचालन इस बात को सुनिश्चित करने की ओर करेगा कि कर्मकारों, पुरुषों और महिलाओं के स्वास्थ्य और क्षमता तथा बालकों की छोटी आयु का दुरुपयोग न हो और नागरिकों को आर्थिक विवशता के कारण ऐसे व्यवसाय न करने पड़े जो उनकी आयु या सामर्थ्य के अनुकूल न हों और विशेषकर बालकों को स्वास्थ्यकर ढंग तथा स्वतंत्रता और सम्मान की दशाओं में विकास करने के लिये अवसर और सुविधाएं दी जाती हों। बालकों एवं युवकों का शोषण से बचाव किया जाना है तथा 14 वर्ष से कम के किसी भी बालक को किसी भी कारखाने या खान में नियोजित नहीं किया जायेगा या किसी अन्य खतरनाक नियोजन में नहीं लगाया जायेगा।

1.2 राष्ट्रीय बाल नीति प्रस्ताव, जो अगस्त, 1974 में पारित किया गया था, ने इन विचारों को और अधिक विकसित किया और ऐसे नीतिगत ढांचे तथा उपाय निर्दिष्ट किए जिनका उद्देश्य बालकों को पर्याप्त सेवायें प्रदान करना था। इन्हें मानव संसाधन के विकास हेतु राष्ट्र की योजना का एक मुख्य हिस्सा होना था। 14 वर्ष तक की आयु के सभी बालकों के लिये मुफ्त और अनिवार्य शिक्षा, स्वास्थ्य और पोषण संबंधी कार्यक्रमों तथा सेवाओं की व्यवस्था, उन बालकों के लिये, जो किन्हीं कारणों से औपचारिक स्कूली शिक्षा का पूरा लाभ लेने में असमर्थ हैं, वैकल्पिक शिक्षा कर व्यवस्था करना और बालकों को उपेक्षा करता तथा शोषण के खिलाफ संरक्षण प्रदान करने के उपाय राष्ट्रीय बाल नीति के अंग हैं। इस नीति में इसके उद्देश्य में से एक उद्देश्य के रूप में इस बात की व्यवस्था है कि 14 वर्ष से कम की आयु के किसी भी बालक को खतरनाक व्यवसायों में काम करने की अनुमति नहीं दी जाएगी या उसे भारी काम करने के लिए विवश नहीं किया जाएगा।

1.3 बाल श्रम संबंधी (गुरुपदास्वामी समिति) ने जिसने

अपनी रिपोर्ट दिसम्बर, 1976 में प्रस्तुत की थी, बाल श्रमिकों की समस्याओं की विस्तार से जांच पड़ताल की। भारत उन देशों में से एक देश है जहां बाल श्रमिकों की समस्यायें बहुत अधिक हैं तथा बाल श्रमिकों की व्यापक विद्यमानता पर भारत सरकार ने भी चिंता व्यक्त की है। गुरुपदास्वामी समिति ने इस बात को स्वीकार किया कि बाल श्रमिकों तथा बाल श्रमिकों के शोषण के बीच विभेद किया जाना चाहिए चूंकि, हालांकि दोनों एक समस्या है, लेकिन वे विभिन्न स्वरूप की हैं। इस समिति ने इस बात पर बल दिया कि बाल श्रमिकों से संबंधित सभी आगामी कार्यवाही में इस मूल पहलू का ध्यान रखना होगा अर्थात् "श्रम, बालकों के मामले में पूर्ण बुराई बन जाती है जब उसकी शारीरिक क्षमता से अधिक उसे काम करना पड़ता है, जब रोजगार के घंटों से उसके शिक्षण, मनोरंजन और विश्राम में विघ्न होता है, जब उसकी मजदूरी किए गए कार्य की मात्रा के अनुरूप नहीं होती है और जिस व्यवसाय में वह नियोजित है उससे उसके स्वास्थ्य तथा उसकी सुरक्षा को खतरा उत्पन्न होता है" अर्थात् जब उसका शोषण होता है।

1.4 सरकार ने बाल श्रमिकों की समस्या के इन पहलुओं पर विचार किया है, अर्थात् बाल श्रमिकों को शोषण से या ऐसी खतरनाक दशाओं में काम करने से बचाने की आवश्यकता जिससे इनके शारीरिक और मानसिक विकास को खतरा उत्पन्न होता है, उनके कार्यस्थल पर सुरक्षा और स्वास्थ्य को सुनिश्चित करने की आवश्यकता, उन्हें बहुत अधिक लम्बे कार्यघंटों और रात्रि में कार्य करने से संरक्षण देना और गैर खतरनाक व्यवसायों में भी कार्य की नियमितता, और सभी बाल श्रमिकों को उनके नियोजन में पर्याप्त साप्ताहिक विश्राम अवधि और छुट्टियों की सुविधा होनी चाहिए।

1.5 हाल ही में लागू बा राष्ट्रीय बाल श्रम नीति - 1987 श्रम (निषेध और विनियम) अधिनियम 1986, उस विचार प्रक्रिया की पराकाष्ठा है जो सरकार इस व्यापक समस्या को दे रही है जिसे देश के आर्थिक और सामाजिक परिदृश्य में

चित्रित किया जाता है। इस कानून को लागू करने और इसके पश्चात नीति को निर्धारित करने की प्रक्रिया तथा कार्यवाई प्रोग्राम की रूपरेखा, दोनों में सरकार को देश में बाल श्रमिकों के आर्थिक और सामाजिक पहलुओं का ध्यान रखना होगा। उदाहरण के लिए सकल घरेलू उत्पाद (जी.डी.पी.) का अधिकांश भाग कृषि के क्षेत्र, ग्रामीण उद्योगों से या शिल्पकार कार्यशाला से या लघु स्तर सेवाओं से आने से बालक प्रायः फार्म कुटुम्ब के एक अनिवार्य भाग या कामकाजी परिवार के एक भाग के रूप में काम करते हैं तथा माता-पिता को अनुषंगी कार्यों में मदद पहुंचाते हैं। फार्म और खेत में, शिल्पकार कार्यशाला में या परिवार संकेन्द्रित लघु व्यवसाय या सेवा प्रतिष्ठानों में बालकों द्वारा ऐसे कामकाजी कार्यकलापों में बालक अक्सर ऐसी दक्षता प्राप्त कर लेते हैं जिससे वे फार्मिंग कुटुम्ब, परिवार प्रतिष्ठानों या व्यवसायों में पूर्ण विकसित कर्मकार बन सकें। हालांकि इस किस्म के कार्य की अपनी समस्यायें हैं, लेकिन हमारे राष्ट्रीय विकास की वर्तमान अवस्था में ऐसे क्षेत्रों या प्रतिष्ठानों में ध्यान केन्द्रित करना अधिक आवश्यक है जहां बालकों को परिवार से बाहर मजदूरी या अर्ध मजदूरी नियोजन पर लगाया जाना है, जहां अधिक शोषण होने की संभावना है चाहे वह किसी भी रूप में हो।

1.6 राष्ट्रीय गरीबी निवारण नीतियां, राष्ट्रीय शिक्षा नीति, सभी के स्वास्थ्य और पोषण-आहार संबंधी राष्ट्रीय नीति और राष्ट्रीय प्लान परिव्यय में सामान्यतः सामाजिक सेवाओं के उपबंधों सभी को गरीबी की समस्याओं का समाधान करने के अनुकूल बनाया जाता है, जहां अक्सर बाल श्रमिकों के उद्गम और दबाव विद्यमान हैं। अधिकांश लोगो को गरीबी लाइन से सामान्यतः ऊपर उठाने या उपरिलिखित क्षेत्रों में उन्नत सामाजिक सेवाओं के संपूर्ण स्पेक्ट्रम की व्यवस्था से यह आशा की जाती है गरीबी क्रमिक रूप से दूर हो जायेगी और इसके फलस्वरूप बालकों को अनुपयुक्त आयु में मजदूरी नियोजन या अर्ध मजदूरी नियोजन में लगाया नहीं जाएगा। ग्रामीण और शहरी दोनों क्षेत्रों में रोमागर उन्मुख विकास को प्रोत्साहन देने के उपायों, औपचारिक तथा अनौपचारिक शिक्षा, व्यवसायिक शिक्षा और प्रशिक्षण के लिए उचित सुविधाओं के

सर्वतोमुखी विकास और उनके विस्तार और सामाजिक सुरक्षा और समाज कल्याण उपायों के अंतर्गत उन्हें लाने और उनके विस्तार से बाल श्रम के मूल कारणों के समाधान में सफलता मिलेगी।

- 1.7 इस कार्यवाई/प्रोग्राम की उक्त पृष्ठभूमि में जांच करनी होगी। विशेष रूप से प्रयास उस स्थिति का सामना करने का है जहां बालक स्वयं अपनी और या अपने परिवार की जीविका अर्जित करने के लिए अनियमित या सतत् आधार पर काम करते हैं या उन्हें काम करने के लिए विवश किया जाता है और जहां उनकी कार्य दशाओं से बहुत अधिक हानि होती है और उनका शोषण किया जाता है और जहां मजदूरी पर नियोजित बालकों पर प्रभाव डालने वाले ऐसे कारण कारकों से संबंधित दुरुपयोग पर राज्यों द्वारा विशिष्ट कानूनी और प्रशासनिक दस्तावेजों और उपायों के माध्यम से उनमें सुधार करने दूर करने और विनियमित करने पर ध्यान देने की जरूरत है।
- 1.8 भावी कार्यवाई/प्रोग्राम को निम्नलिखित तीन शीर्षकों के अंतर्गत निर्दिष्ट किया गया है :
 1. विधायी कार्यवाई प्लान
 2. अगर किसी भी तरह संभव हो, तो बाल श्रमिकों के फायदे हेतु सामान्य विकास कार्यक्रमों पर प्रकाश डालना और
 3. ऐसे क्षेत्रों में जहां मजदूरी/अर्ध मजदूरी नियोजन में काम कर रहे बाल श्रमिक संकेन्द्रित है, परियोजना पर आधारित प्लान।

भाग-2

विधायी कार्यवाई प्लान

- 2.1 बाल श्रम तकनीकी सलाहकार समिति गठित की गई है जो बाल श्रम (प्रतिषेध और विनियम) अधिनियम, 1986 (जिसे इसके पश्चात सी.एल.ए., 86 कहा गया है) में निर्दिष्ट अनुसूची में व्यवसायों और प्रक्रियाओं को शामिल करने के बारे में केन्द्रीय सरकार को सलाह देगी।
- 2.2 सी.एल.ए., 1986 के प्रावधानों के अनुसार कारखाना अधिनियम तथा खान अधिनियम को लागू करने, विशेषकर यह सुनिश्चित करने के लिए लागू किया जायेगा कि बच्चों को फैक्टरी अथवा खानों अथवा किसी अन्य जोखिम भरे

कार्य में न लगाया जाए और जहां वे जोखिम भरे कार्य में नहीं लगे वहां कार्य सी.एल.ए., 1686 के खंड 3 के अनुरूप हों। जहां राज्य सरकारों को सी.एल.ए., 1986 या किसी अन्य कानून के अंतर्गत कानून बनाना आवश्यक हो जिससे कि बाल श्रमिकों के हितों की रक्षा की जा सके, उनसे पुनरीक्षण करने तथा यथा आवश्यक कानून बनाने हेतु अनुरोध किया जाएगा। रेलवे प्रशासन, मुख्य बंदरगाहों तथा तेल क्षेत्रों एवं खानों के केन्द्रीय एवं राज्य सरकारों के प्रभारी विभागों से सी.एल.ए., 1686 के लागू किए जाने से उत्पन्न स्थिति को भी इस तरह से पुनरीक्षण करने को कहा गया है जिससे यह सुनिश्चित किया जा सके कि बाल श्रमिक प्रतिषिद्ध व्यवसायों या नियोजनों में न लगे हो और अगर किसी अन्य व्यवसाय या रोजगार में लगे हों तो सभी प्रतिष्ठानों में उनके लिए स्वास्थ्य एवं सुरक्षा रजिस्ट्रों के रख-रखाव कार्य एवं कार्य समय को निर्धारित करने अथवा ओवरटाइम अथवा साप्ताहिक छुट्टियां अथवा आराम के दिनों इत्यादि प्रावधानों को लागू करना।

- 2.3 सरकार भी न्यूनतम मजदूरी अधिनियम के उपबंध जिसमें बालकों, किशोरों तथा वयस्कों को भिन्न-भिन्न मजदूरी की दर देने की व्यवस्था है, को खत्म करने के लिए एक विधेयक भी बनायेगी। दूसरे शब्दों में, बालकों को वयस्कों के बराबर भुगतान करना होगा। इससे बालकों को कम मजदूरी पर नियोजित करने का आर्थिक प्रोत्साहन समाप्त हो जायेगा। अन्य सुरक्षा के विधेयकों जैसे मजदूरी संदाय अधिनियम, समान पारिश्रमिक अधिनियम, बोनस संदाय अधिनियम, उपदान संदाय अधिनियम इत्यादि जैसे सुरक्षात्मक विधेयक को लागू करने के लिए यह सुनिश्चित किया जाएगा कि बाल श्रमिकों के व्यक्तों की तुलना में भेद-भाव नहीं किया जाता है। इसके हेतु केन्द्रीय तथा राज्य सरकार निरीक्षण तंत्र को मजबूत किया जाएगा।

भाग-3

बाल श्रमिकों के लाभ के लिए सामान्य विकास कार्यक्रम पर जोर देना

- 3.1 राष्ट्रीय विकास कार्यक्रमों में बाल विकास तथा गरीबी उन्मूलन कार्यक्रमों सहित शिक्षा, स्वास्थ्य तथा पोषण के क्षेत्र आते हैं। बाल श्रमिकों पर

प्रभाव डालने के लिए यह आवश्यक हो गया कि कार्यान्वयन एजेन्सियां जो राज्य सरकार अथवा केन्द्र सरकार के अंतर्गत हो, इन कार्यक्रमों पर जोर दे ताकि बाल श्रमिकों को सम्भाव्य लाभ पहुंचाए जा सके। कुछ क्षेत्र जहां जोर देना संभव है, नीचे दिए गए हैं :

- 3.2 शिक्षा : राष्ट्रीय शिक्षा नीति, 1986 (एन.पी.ई.) में अनौपचारिक शिक्षा पद्धति के माध्यम से सभी ऐसे बच्चे जिन्होंने 1960 तक 5 वर्ष तक स्कूल की शिक्षा या इसके समकक्ष शिक्षा या इसके समकक्ष शिक्षा प्राप्त की हो तथा वे 11 वर्ष के हों, का लक्ष्य रखा गया है। 4,60,000 अनौपचारिक शिक्षा केन्द्र (एन.एक.ई.) खोले जाने का प्रस्ताव है जो अनौपचारिक शिक्षा पद्धति का पूरक होगा। चूंकि अनौपचारिक शिक्षा योजना लागू करने का मुख्य रूप विशेषतया माइक्रो स्तर तथा क्षेत्रविशेष तथा जनसंख्या विशेष पर आधारित है, स्वैच्छिक संगठनों तथा पंचायती राज संस्थानों जो ऐसे अनौपचारिक शिक्षा केन्द्रों को चलाने में सक्षम हैं के सहयोग से जहां संभव हो उन बाल श्रमिकों के लिए एन.एक.ई. केन्द्र स्थापित किए जाएंगे जो छुट्टी में या कार्य के समय के बाद इन केन्द्रों पर उपस्थित हो सकते हैं। कार्यरत बालकों में से लड़कियों को एन.एक.ई. केन्द्रों की ओर आकर्षित करने तथा वहां रोकने के लिए विशेष ध्यान दिया जाएगा। इन केन्द्रों में अंशकालिक पाठ्य क्रम तथा व्यवसायिक पाठ्यक्रम भी पढ़ाये जाएंगे। बाल श्रमिकों के ऐसे अनौपचारिक शिक्षा केन्द्रों का उद्देश्य बालकों को कक्षा 5 तक शिक्षित करना तथा यदि व्यवहार्य हो, तो उन्हें कक्षा 8 तक अनौपचारिक शिक्षा की व्यवस्था करना होगा। जहां बाल श्रमिकों के लिए ऐसे एन.एक.ई. केन्द्र गठित करना संभव है, राष्ट्रीय शिक्षा नीति के कार्यावाही कार्यक्रम में सभी प्रमुख आवश्यकताओं की व्यवस्था की जाएगी।

- 3.3 अनुसूचित जाति/अनुसूचित जनजाति के परिवारों जैसी लाभ रहित श्रेणियों के बाल श्रमिकों के लिए, अनुसूचित जाति/अनुसूचित जनजाति के गरीब परिवारों, जिन्हें अपने बच्चों को मजदूरी/अर्ध मजदूरी वाले नियोजनों पर लगाना पड़ता है, को प्रोत्साहन सहायता देने के लिए राज्य सरकारों के परामर्श से योजना के ब्यौरे तैयार किए जाएंगे। ऐसे बालकों को जो सफाई करने, चमड़ा उतारने तथा चमड़ा रंगने जैसे व्यवसायों

में लगे परिवारों से संबंध रखते हैं, सतत लघु योजना तथा सत्यापन करके छात्रवृत्तियां दी जाएंगी ताकि यह सुनिश्चित किया जा सके कि अनौपचारिक शिक्षा केन्द्रों में अनुसूचित जाति/अनुसूचित जनजाति के बाल श्रमिता आठवीं कक्षा तथा अनौपचारिक पाठ्यक्रम सफलतापूर्वक पूरा करें। ऐसा राष्ट्रीय शिक्षा कार्यक्रम में निर्धारित विशेष अपबंधों के अनुसार है।

- 3.4 बाल श्रमिकों के लिए विशेष रूप से अनुसूचित जाति/अनुसूचित जनजाति जैसे समाज के लाभ रहित परिवारों का केन्द्रीकरण है, संबंधित बाल श्रमिकों के लिए अनौपचारिक शिक्षा केन्द्रों की लघु योजना शुरु की जाएगी।
- 3.5 शहरी क्षेत्रों में भी विशेष कर शहरी गंदी बस्तियों में अनौपचारिक शिक्षा कार्यक्रमों को राज्य सरकारों तथा स्वैच्छिक एजेन्सियों द्वारा प्रोत्साहन दिया जाएगा जिनमें अतिरिक्त पाठ्यक्रम कार्यकलाप विभिन्न पढ़ाई लिखाई कार्यकलाप तथा खेल कूद तथा इससे संबंधित उपस्कर, नाटक और एकांकी, भ्रमण आदि की व्यवस्था करना शामिल है।
- 3.6 स्वैच्छिक एजेन्सियों की परियोजनाओं चाहे वे शहरी क्षेत्रों के लिए हो या ग्रामीण क्षेत्रों के लिए 3-4 वर्षों के लिए शुरु की जाएंगी और हालांकि प्रारम्भिक प्रस्ताव राज्य सरकारों को भेजे जाएंगे परन्तु बाद में स्वैच्छिक एजेन्सियां ऐसे अनौपचारिक शिक्षा केन्द्रों को सहायता अनुदान दिलाने के लिए सीधे शिक्षा विभाग के पास जाएंगी। श्रम मंत्रालय भी बाल श्रमिकों के लाभ के अनौपचारिक शिक्षा केन्द्रों के लिए माईक्रो लेवल प्लानिंग की व्यवस्था करेगा तथा शिक्षा विभाग इनकी सिफारिश करेगा।
- 3.7 संपूर्ण समन्वय तथा स्थानीय जिला स्तर विकास प्राधिकरणों के निदेशाधीन बाल श्रमिकों के खान-पान की व्यवस्था करने वाले अनौपचारिक शिक्षा केन्द्रों के लिए आधारभूत संरचना तैयार करने हेतु राष्ट्रीय ग्रामीण रोजगार कार्यक्रम/ग्रामीण श्रमिक रोजगार गारंटी शुदा कार्यक्रम की निधि की उपयोग अग्रता आधार पर किया जाएगा।
- 3.8 वे बाल श्रमिक, जिनके नाम लिखे गए हैं तथा जिन्होंने अनौपचारिक शिक्षा सफलतापूर्वक पूरी कर ली है, उनकी शिक्षा जारी रखने के लिए अनौपचारिक शिक्षा संस्थानों को ओपेन स्कूलों या अनौपचारिक शिक्षा संस्थानों को ओपेन स्कूलों

या अनौपचारिक शिक्षा पद्धति के साथ सहबद्ध करने के प्रयास किए जाएंगे ताकि उन्हें अपनी शिक्षा जारी रखने के योग्य बनाया जा सके। अनौपचारिक शिक्षा कार्यक्रमों को श्रमिक विद्यापीठों, सार्वजनिक पुस्तकालय योजनाओं, जन शिक्षा निलायमों से भी सहबद्ध किया जाएगा तथा अनौपचारिक क्षेत्रों से आने वाले कामकाजी बालकों के लिए अन्य पाठ्यक्रमों के साथ विभिन्न व्यवसायिक तथा तकनीकी पाठ्यक्रमों की व्यवस्था की जाएगी।

- 3.9 स्वास्थ्य : स्वास्थ्य राज्य सरकार का विषय है और बालकों की चिकित्सीय जांच का कार्यक्रम राज्यों को सौंपा गया है। विशिन्न राज्यों की प्रगति असमान है। कुछ राज्यों ने अच्छे कार्यक्रम तैयार किए हैं। परन्तु बहुत से राज्य ऐसा नहीं करते। कई राज्यों में स्कूल स्वास्थ्य सेवा कार्यक्रम मौजूद है और सभी राज्यों के ग्रामीण क्षेत्रों में प्राथमिक स्कूल जाने वाले बालकों को नियमित जांच योजना के अंतर्गत लाया गया है। परन्तु कार्य पर होने के कारण स्कूल न जाने वाले बालक स्पष्टतः ऐसे स्कूल स्वास्थ्य कार्यक्रमों (जहां वे मौजूद हैं) के अधिन नहीं आते हैं। स्वास्थ्य तथा परिवार कल्याण मंत्रालय राज्य सरकारों को सिफारिश करेगा कि उन क्षेत्रों में बालकों की गहन चिकित्सीय जांच की जाए जहां बाल श्रम पद्धति प्रचलित है। बाल श्रमिकों पर स्कूल स्वास्थ्य सेवा कार्यक्रम लागू करने के लिए राज्य सरकारों को सहमत किया जाएगा। चूंकि यह मामला पूर्णतः राज्य के क्षेत्रधिकार में आता है, राज्य सरकारों से लगातार बातचीत, प्रयास तथा अनुनय किया जाएगा ताकि उन्हें चाहे वे प्राथमिक स्कूल में हो या काम कर रहे हो, नियमित स्वास्थ्य जांच तथा उपचार/अंतर चिकित्सा सेवाओं के अंतर्गत लाया जाए अनौपचारिक शिक्षा केन्द्रों में बाल श्रमिकों के लिए कुछ स्वास्थ्य चलचित्रों की व्यवस्था की जाए।
- 3.10 पोषण : महिलाओं और बालकों के लिए महिला और बालक विकास विभाग में समाकलित बाल विकास सेवाएं जैसे कार्यक्रम चल रहे हैं जिन्हे राज्य सरकार तथा गैर सरकारी संगठनों द्वारा किए गए प्रस्तावों के आधार पर स्वीकृत किए जाते हैं। हालांकि विशेष रूप से बाल श्रमिकों के लिए निधि निर्धारित करना संभव नहीं होगा, परन्तु राज्य सरकारों/गैर सरकारी संगठनों और

बाल श्रमिकों वाले क्षेत्रों में स्वैच्छिक एजेंसियों से प्राप्त प्रस्तावों के लिए अग्रता आधार पर निधि की व्यवस्था की जाएगी और यदि आवश्यक हुआ तो बाल श्रमिकों के लिए कल्याणकारी उपाय करने के लिए स्थापित किए जाने वाले संगठनों से प्राप्त प्रस्तावों पर विचार करने के लिए नियमों में भी ढील दी जा सकती है।

3.11 गरीबी उन्मूलन कार्यक्रमों का सीमाक्षेत्र : समेकित ग्रामीण विकास कार्यक्रम/राष्ट्रीय ग्रामीण राजगार कार्यक्रम/ग्रामीण श्रमिक रोजगार गारंटी शुदा कार्यक्रम आदि निधि राज्यों द्वारा अनुपालन किए जाने के लिए निर्धारित मानदंड के आधार पर गरीबी अन्मूलन कार्यक्रमों के लिए है। गरीबी अन्मूलन कार्यक्रमों के संपूर्ण दायरे में वे परिवार आते हैं जहां बाल श्रमिक हैं और इस सीमा में ऐसे परिवार आते हैं जहां आय सृजित करने के लिए (अर्थात् समेकित ग्रामीण विकास कार्यक्रम) का मजदूरी नियोजन (राष्ट्रीय ग्रामीण रोजगार कार्यक्रम/ग्रामीण श्रमिक रोजगार शुदा कार्यक्रम के लिए) निधि के चयन मानदंड के अन्दर आने वाले बाल श्रमिक हैं, उन्हें चल रहे कार्यक्रमों से लाभ होगा जिनके लिए सातवीं योजना में काफी निधि है। इसलिए उस सीमा तक सबसे गरीब परिवार अपने बच्चों को मजदूरी अल्प मजदूरी नियोजन के कार्य पर भेजने को मजबूर हो जाते हैं, उन्हें अपने आपको गरीबी रेखा से उपर उठाने के लिए सहायता मिलेगी और यह ग्रामीण क्षेत्रों, गंदी बस्ती वाले क्षेत्रों आदि में खोले जा रहे हैं। अनौपचारिक शिक्षा केन्द्रों के सहयोजन से बालकों को काम पर भेजने के एक मूल कारण अर्थात् गरीबी रेखा से उपर उठाने के लिए सहायता मिलेगी और यह ग्रामीण क्षेत्रों, गंदी बस्ती वाले क्षेत्रों आदि में खोले जा रहे हैं। अनौपचारिक शिक्षा केन्द्रों के सहयोजन से बालकों को काम पर भेजने के एक मूल कारण अर्थात् गरीबी से निपटने में संचायक होगा।

भाग-4

परियोजना पर आधारित कार्यवाई योजना

यह विदित है कि नियोजन के कुछ ऐसे विशेष क्षेत्र हैं जहां बाल श्रमिक अधिक संख्या में हैं, यथा :

1. शिवाकाशी, तामिलनाडू में माचिस उद्योग।
2. सूरत, गुजरात में हीरे पर पालिश करने वाला उद्योग।

3. जयपुर, राजस्थान में कीमती पत्थर पर पालिश करने वाला उद्योग।
 4. फिरोज़ाबाद, उत्तर प्रदेश में कांच उद्योग।
 5. मुरादाबाद, उत्तर प्रदेश में पीतल उद्योग।
 6. उत्तर प्रदेश में मिर्जापुर, भदोही में हाथ से बनाने वाले गलीचा उद्योग।
 7. अलीगढ़, उत्तर प्रदेश में ताले बनाने वाला उद्योग।
 8. जम्मू व कश्मीर में हाथ से बुनने वाला गलीचा उद्योग।
 9. मध्य प्रदेश में मन्दसौर में स्लेट उद्योग।
 10. आन्ध्र प्रदेश में मार्कपुर में स्लेट उद्योग।
- 4.2 उल्लिखित नियोजन क्षेत्रों तथा भौगोलिक क्षेत्रों में लगे बाल कर्मकार प्राथमिकता के आधार पर ध्यान दिए जाने के पात्र हैं क्योंकि या तो नियोजन प्रक्रियाओं को, जिनके अधीन वे कार्य करते हैं कारखाना अधिनियम, या बाल श्रम (प्रतिषिद्ध एवं विनियमन) अधिनियम के अधीन प्रतिषिद्ध किया गया है या वह ऐसा कार्य है जिससे बालको के हितों पर प्रभाव पड़ सकता है।
- 4.3 "10 परियोजना क्षेत्रों" में से प्रत्येक में निम्नलिखित बातों को लेकर पैकेज तैयार करने की योजना बनाई जाएगी:
1. बाल श्रमिक (प्रतिषेद्ध और विनियमन) अधिनियम, कारखाना अधिनियम और खान अधिनियम के कार्यान्वयन को बढ़ावा देना। यदि आवश्यक हो, तो इस उद्देश्य के लिए विशेष प्रवर्तन स्टाफ के पदों का सृजन किया जाएगा।
 2. गरीबी उन्मूलन कार्यक्रमों के संपूर्ण तत्प्रावधान के अधीन आय/रोजगार सृजन कार्यक्रमों के अंतर्गत बाल श्रमिक परिवारों को शामिल करना।
 3. जहां बाल श्रमिकों के साथ अनुसूचित जाति/अनुसूचित जनजाति परिवारों का केन्द्रीकरण है वहां प्रत्येक परियोजना क्षेत्र में राज्य सरकारों द्वारा विशेष कंपोजेंट और जन जातीय उपयोगनाओं पर ध्यान देना।
 4. जोखिमपूर्ण नियोजनों में लगे अंततः सभी बाल श्रमिकों और बिना जोखिम वाले नियोजनों में लगे यथा संभव अधिक से अधिक बाल श्रमिकों की औपचारिक/अनौपचारिक शिक्षा। कार्यरत बालकों के माता-पिता के लिए वयस्क शिक्षा (अनौपचारिक शिक्षा सहित) का स्टैन्ड अप कार्यक्रम।

5. बाल श्रमिकों के कल्याण के लिए केन्द्रीय और राज्य सरकारों के विशिष्ट विभागों/मंत्रालयों के कार्यकलापों का समन्वय करना।
6. बाल श्रमिकों के लिए विशेष स्कूल स्थापित करने के साथ-साथ ऐसे विशेष स्कूलों में व्यवसायिक शिक्षा/प्रशिक्षण की व्यवस्था, प्रतिषिद्ध नियोजनों से निकाले गए बालकों को पूरक आहार, स्टाइपेंड और ऐसे विशिष्ट स्कूलों में जा रहे बालकों के लिए स्वास्थ्य देख-रेख।
- 4.4 इस उद्देश्य अर्थात् (6) के लिए आधारमूल संरचना बनानी होगी और जहां कहीं शिक्षा, स्वास्थ्य विभाग आदि द्वारा श्रमिक विद्यापीठ जैसी चलाई जा रही आधारभूत संरचना मौजूद है उन्हें उपयुक्त रूप से बदला जाएगा और इस्तेमाल किया जाएगा। ऐसे बालकों को, जो विना जोखिम वाले/गैर निषिद्ध नियोजनों में कार्यरत हैं, स्टाइपेंड का भुगतान नहीं किया जाएगा। परियोजना क्षेत्रों में अनौपचारिक शिक्षा/औपचारिक शिक्षा संस्थान कार्य के समय के पश्चात्, छुट्टियों आदि के दौरान जो भी सुविधाजनक हो समयानुसार काम करेंगे। वै.एन.पी.ई. के कार्यवाई कार्यक्रम में निर्धारित अनौपचारिक शिक्षा की सभी विशिष्ट बातों को शामिल करेंगे।
- 4.5 परियोजना क्षेत्र में गरीबी हटाओ कार्यक्रमों के ग्रूप, राज्य सरकारों द्वारा चलाए जा रहे स्कूल स्वास्थ्य कार्यक्रमों के अनुरूप स्वास्थ्य कार्यक्रमों, विशेष आहार कार्यक्रम और विशेष स्कूलों की स्थापना के लिए जो व्यवसायिक शिक्षा और प्रशिक्षण व्यवस्था उपलब्ध करेंगे और जोखिम पूर्ण नियोजनों से निकाले गए बालकों को वजीफा देने को व्यापक रूप से शामिल करने के उद्देश्य से केन्द्रीय सरकार द्वारा या राज्य सरकार द्वारा योजना के अधीन चलाए जा रहे अपने-अपने कार्यक्रमों की वर्तमान निधियों के अतिरिक्त निधियां उपलब्ध कराने की आवश्यकता होगी। आवश्यक अतिरिक्त निधियों को श्रम मंत्रालय के माध्यम से दिया जाएगा जो कि दस बाल श्रमिक परियोजनाओं के लिए नोडल मंत्रालय होगा।
- 4.6 विशेष परियोजना क्षेत्रों में जाने के प्रथम चरण में 30,000 बाल श्रमिकों को शामिल करने का प्रस्ताव है। प्रत्येक परियोजना को संबंधित राज्य सरकारों और केन्द्रीय सरकार के परामर्श से

ध्यानपूर्वक बनाया जाएगा ताकि श्रम मंत्रालय की पूर्ण समन्वय एजेन्सी के अधीन केन्द्रीय तथा राज्य सरकारों द्वारा चलाए जा रहे कार्यक्रमों को उपयुक्त रूप से शामिल करना और सम्मिलित करना सुनिश्चित किया जा सके। प्रत्येक परियोजना क्षेत्र के संबंध में परियोजना रिपोर्ट बनाने और प्रत्येक परियोजना क्षेत्र में दिखाए गए पूर्ण कार्यक्रम के लिए आवश्यक अतिरिक्त निधियां उपलब्ध कराने के लिए श्रम मंत्रालय नोडल एजेन्सी होगा।

भाग-5

5. बाल श्रमिक परियोजना के कार्यान्वयन के लिए संगठन
प्रत्येक परियोजना क्षेत्र का प्रभारी एक मुख्य कार्यकारी अधिकारी होगा जो उस जिले के, जहां परियोजना चलाई जा रही है, प्रशासनिक प्रमुख के सामान्य निरीक्षण और निर्देशों के अधीन कार्य करेगा। वहां एक बाल श्रमिक परियोजना बोर्ड होगा जिसका अध्यक्ष कलक्टर होगा, जिसमें जिले की शिक्षा, स्वास्थ्य और आहार प्राधिकरणों के प्रतिनिधियों के साथ-साथ स्वैच्छिक/पंचायत राज संस्थानों जो कि जिले में बाल श्रमिक कार्यत्व है, के प्रतिनिधि भी होंगे। यह परियोजना है। क्षेत्र में योजना और गैर-योजना स्कीमों को चलाने वाले विभिन्न विभागों के सारे निवेश का समन्वय सुनिश्चित करेगा ताकि बाल श्रमिकों/उनके परिवारों के लाभ की ओर ध्यान आकर्षित किया जा सके और श्रम मंत्रालय द्वारा प्रत्येक परियोजना को अतिरिक्त परियोजना निधियां भी आबंटित कराई जा सकें।

भाग-6

परियोजना की मानीटरिंग

बाल श्रमिक परियोजनाओं के कार्यकरण को केन्द्रीय सरकार की उच्च शक्तियुक्त समिति द्वारा मानीटर किया जायेगा, जिसमें श्रम, शिक्षा, स्वास्थ्य, ग्रामीण विकास, बाल और महिला विकास मंत्रालयों/विभागों और राज्य सरकारों जहां बाल श्रमिक परियोजनाएं कार्यान्वित की जा रहीं हैं अर्थात् तमिलनाडु, उत्तर प्रदेश, राजस्थान, गुजरात, जम्मू कश्मीर, मध्य प्रदेश और आंध्र प्रदेश के प्रतिनिधि होंगे। यह समिति परियोजना का निर्बाध रूप से चलाना सुनिश्चित करने के लिए जब भी आवश्यक होगा, अपनी बैठक बुलाएगी।



बाल श्रम (प्रतिबंध और नियमन) अधिनियम 1986
(1986 का अधिनियम नम्बर 61)
23 दिसंबर 1986

विषय सूची

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अनुसूची

भाग-1 प्रारंभिक

1. संक्षिप्त नाम, क्षेत्र और प्रारंभ
 - 1) इस अधिनियम का संक्षिप्त नाम बाल श्रम (प्रतिबंध और नियमन) अधिनियम 1986 है।
 - 2) इसका क्षेत्र समूचे भारत में है।
 - 3) इस अधिनियम के प्रावधान, भाग 3 को छोड़कर तत्काल लागू होने और भाग 3 उस तारीख से लागू होगा - जो केन्द्र सरकार राजपत्र में अधिसूचना द्वारा नियत करेगा और विभिन्न राज्यों और विभिन्न वर्गों के लिए भिन्न-भिन्न तारीखें नियत की जाएगी।
2. परिभाषाएं - इस अधिनियम में, जब तक कि संदर्भ के अनुसार अन्यथा जरूरत न हो -
 - 1) "समुचित सरकार" से केन्द्र सरकार के नियंत्रण के अधीन प्रतिष्ठान या रेत प्रशासन या बंदरगाह या किसी खान या तेल क्षेत्र के संबंध में केन्द्र सरकार और सभी अन्य मामलों में राज्य सरकार मतलब है।
 - 2) "बालक" का मतलब ऐसा व्यक्ति है जिसने अपनी आयु का चौदहवां वर्ष पूरा नहीं किया है।
 - 3) "दिन" का मतलब आधी रात से आरंभ होने वाली चौबीस घंटे की कालावधि है।
 - 4) "प्रतिष्ठान" के अन्तर्गत दुकान, वाणिज्यिक प्रतिष्ठान, कार्यशाला फार्म, आवासीय होटल, उपाहारगृह, भोजन-गृह, नाट्यगृह या सार्वजनिक मनोरंजन स्थल या मनोरंजन का अन्य स्थान है।
 - 5) मालिक के संबंध में "परिवार" से मतलब है कोई व्यक्ति, ऐसे व्यक्ति का पति या पत्नी और उनकी संतान और ऐसे व्यक्ति का भाई या बहन।
 - 6) किसी प्रतिष्ठान या कार्यशाला के संबंध में मालिक से मतलब वह व्यक्ति है जिसे प्रतिष्ठान या कार्यशाला के कामकाज पर अंतिम नियंत्रण प्राप्त है।
 - 7) "बंदरगाह प्राधिकारी" से बंदरगाह का प्रशासन करने वाला कोई प्राधिकारी मतलब है।
 - 8) "प्रस्तावित" से धारा 18 के अधीन बनाए गए नियमों का मतलब है।

- 9) "सप्ताह" से शनिवार की रात को या ऐसी अन्य रात को, जो निरीक्षक द्वारा विशिष्ट क्षेत्र के लिए लिखकर अनुमोदित की जाए, आधी रात से प्रारंभ होने वाली सात दिन की कालावधि का मतलब है।
- 10) कार्यशाला से मतलब है कोई ऐसा परिसर, (जिसके अंतर्गत उसकी प्रसीमाएं भी हैं) जिसमें कोई औद्योगिक प्रक्रिया की जाती है लेकिन इसके अंतर्गत ऐसा कोई परिसर नहीं है जिसमें कारखाना अधिनियम, 1648 (1648 का 63) की धारा 67 के प्रावधान कुछ समय के लिए लागू होते हैं।
- 2) समिति एक अध्यक्ष और उस जैसे अधिकतम दस सदस्यों से मिलकर बनेगी जो केन्द्र सरकार द्वारा नियुक्त किए जाएंगे।
- 3) समिति की बैठकें उतनी बार होंगी जितनी बार वह आवश्यक समझे और उसे अपनी प्रक्रिया को नियमित करने के अधिकार होंगे।
- 4) समिति, यदि वह ऐसा करना जरूरी समझे तो एक या अधिक उपसमितियां गठित कर सकती और किसी ऐसी उपसमिति में, साधारणतया या किसी विशेष मामले के विचार के लिए ऐसे किसी व्यक्ति को, जो समिति का सदस्य नहीं है, नियुक्त कर सकती।
- 5) समिति के अध्यक्ष और अन्य सदस्यों की पदावधि उनके पदों में आकस्मिक रिक्तियां भरने की रीति, और उनको संदेय भूतें, यदि कोई हों, और वे शर्तें और प्रतिबंध जिनके अधीन रहते हुए, समिति ऐसे व्यक्ति को, जो उस समिति का सदस्य नहीं है, अपनी किसी उपसमिति का सदस्य नियुक्त कर सकती, वे होंगे जो प्रस्तावित किए जाएंगे।

भाग-2

कुछ पेशों और प्रक्रियाओं में बच्चों के रोजगार पर प्रतिबंध

3. कुछ पेशों और प्रक्रियाओं में बच्चों के रोजगार पर प्रतिबंध

अनुसूची के भाग क में वर्णित किसी उपजीविका में या किसी ऐसी कार्यशाला जिसमें अनुसूची के भाग ख में वर्णित कोई प्रक्रिया की जाती है, कोई बच्चा नियोजित या काम करने के लिए नहीं लाया जाएगा।

परन्तु इस धारा की कोई बात किसी ऐसी कार्यशाला में जिसमें कोई प्रक्रिया मालिक द्वारा अपने कुटुम्ब की सहायता से की जाती है या सरकार द्वारा स्थापित या उससे सहायता या मान्यता प्राप्त करने वाले किसी विद्यालय में होती है वहां लागू नहीं होगी।

4. अनुसूची के संशोधन का अधिकार

केन्द्रीय सरकार, राजपत्र में अधिसूचना द्वारा, ऐसा करने के अपने आशय की कम से कम तीन मास की सूचना देने के बाद वैसी अधिसूचना द्वारा अनुसूची में किसी उपजीविका या प्रक्रिया को जोड़ सकती और तब अनुसूची इसके अनुसार संशोधित की गई समझी जाएगी।

5. बालक श्रम तकनीकी सलाहकार समिति

1) केन्द्र सरकार, राजपत्र में अधिसूचना द्वारा एक सलाहकार समिति का गठन कर सकती जिसे बालक श्रम तकनीकी सलाहकार समिति कहा जाएगा (जिसे इस धारा में इसके बाद समिति कहा गया है) और जो केन्द्र सरकार को अनुसूची में जीविकाओं और प्रक्रियाओं को जोड़ने के लिए सलाह देगी।

भाग-3

बच्चों के काम की स्थितियों का निश्चयन

6. भाग पर अमल होना

इस भाग के प्रावधान ऐसे प्रतिष्ठान या प्रतिष्ठानों के वर्ग पर लागू होंगे जिसमें धारा 3 में निहित उपजीविकाओं या प्रक्रियाओं में से कोई नहीं की जाती है।

7. काम के घंटे और समय की अवधि

1) किसी बालक से किसी प्रतिष्ठान में उतने घंटों से आधेक काम करने की अपेक्षा नहीं की जाएगी या सहमति नहीं दी जाएगी, जो ऐसे प्रतिष्ठान या प्रतिष्ठानों के वर्ग के लिए प्रस्तावित किए जाए।

2) प्रत्येक दिन काम की कालावधि इस प्रकार नियत की जाएगी कि कोई कालावधि तीन घंटे से अधिक की नहीं होगी और कोई बालक कम से कम एक घंटे का विश्राम अन्तराल ले चुकने से पूर्व तीन घंटे से अधिक काम नहीं करेगा।

3) किसी बालक के काम की कालावधि की व्यवस्था इस प्रकार की जाएगी कि वह उपधारा (2) के अधीन उसके विश्राम के अन्तराल सहित छह घंटों से अधिक नहीं होगी, जिसके अंतर्गत किसी दिन काम के लिए प्रतीक्षा में बिताया गया

समय भी है।

- 4) किसी बालक से 7 बजे शाम और 8 बजे सुबह के बीच काम करने की अपेक्षा नहीं की जाएगी या सहमति नहीं दी जाएगी।
- 5) किसी बालक से ओवरटाइम में काम करने की अपेक्षा नहीं की जाएगी या सहमति नहीं दी जाएगी।
- 6) किसी बच्चे से किसी प्रतिष्ठान में ऐसे दिन काम करने की अपेक्षा नहीं की जाएगी या सहमति नहीं दी जाएगी, जिस दिन वह पहले से ही किसी अन्य प्रतिष्ठान में काम कर रहा हो।

8. साप्ताहिक अवकाश

किसी प्रतिष्ठान में नियोजित प्रत्येक बालक को प्रत्येक साप्ताह में एक संपूर्ण दिन का अवकाश मनाने की अनुमति होगी, वह दिन में किसी सहज स्थान पर स्थायी रूप से प्रदर्शित सूचना में उल्लेखित किया जाएगा और इस प्रकार उल्लेख किए गए दिन में उस मालिक द्वारा तीन मास में एक बार से अधिक परिवर्तन नहीं किया जाएगा।

9. निरीक्षक को नोटिस

- 1) ऐसे प्रतिष्ठान के संबंध में जिसमें कोई बालक इस अधिनियम के प्रारम्भ की तारीख के ठीक पहले काम करने के लिए नियोजित था या काम करने के लिए लाया गया था, प्रत्येक मालिक तीन दिन की कालावधि के भीतर उस निरीक्षक को, जिसकी स्थानीय सीमाओं के भीतर प्रतिष्ठान है निम्नलिखित सूचना भेजेगा :
 - क) प्रतिष्ठान का नाम और स्थिति
 - ख) प्रतिष्ठान का वास्तव में प्रबन्ध करने वाले व्यक्ति का नाम
 - ग) वह पता जिस पर प्रतिष्ठान से संबंधित सूचनाएं भेजी जानी चाहिए और
 - घ) जीविका की प्रकृति या प्रतिष्ठान में की जानी वाली प्रक्रिया।

- 2) किसी प्रतिष्ठान के संबंध में ऐसा प्रत्येक मालिक जो ऐसे प्रतिष्ठान के संबंध में इस अधिनियम के प्रारम्भ की तारीख के पश्चात किसी बालक को काम करने के लिए नियोजित करता है ऐसे नियोजन की तारीख से तीन दिन की कालावधि के भीतर उस निरीक्षक को, जिसकी स्थानीय सीमाओं के भीतर प्रतिष्ठान है, उपधारा(1) में वर्णित चीजें बताते हुए लिखित सूचना भेजेगा।
स्पष्टीकरण - उपधारा (1) और उपधारा (2) के

लिए किसी प्रतिष्ठान के संबंध में इस अधिनियम के प्रारम्भ की तारीख से मतलब इस अधिनियम को लागू करने की तारीख है।

- 3) धारा 7 और धारा 8 और धारा 9 की कोई बात, किसी ऐसे प्रतिष्ठान में जिसमें मालिक द्वारा कोई प्रक्रिया अपने कुटुम्ब की सहायता से की जाती है या सरकार द्वारा स्थापित या उससे सहायता या मान्यताप्राप्त करने वाले किसी विद्यालय में लागू नहीं होगी।

10. उम्र के बारे में विवाद

यदि किसी ऐसे बालक की, जो मालिक द्वारा किसी प्रतिष्ठान में काम करने के लिए नियोजित किया जाता है, अयु के बारे में निरीक्षक और मालिक के बीच कोई विवाद खड़ा होता है, तो वह विवाद प्रस्ताविक चिकित्सा प्राधिकारी द्वारा ऐसे बालक की आयु के बारे में दिए गे प्रामाणपत्र के अभाव में, निरीक्षक द्वारा प्रस्तावित चिकित्सा प्राधिकारी के पास निर्देशित किया जाएगा।

11. रजिस्टर का रख-रखाव

प्रत्येक अधिष्ठाता द्वारा किसी प्रतिष्ठान में काम करने के लिए नियोजित बालकों के संबंध में एक रजिस्टर रखा जाएगा जो काम के घंटों के दौरान सब समयों पर या जब किसी ऐसे प्रतिष्ठान में काम हो रहा हो, तब सभी समयों पर निरीक्षक द्वारा निरीक्षण के लिए उपलब्ध होना, जिसमें निम्नलिखित चीजें होगी :

- क) काम के लिए इस प्रकार नियोजित किए गए हर बालक का नाम और उसके जन्म की तारीख।
- ख) किसी ऐसे बालक के काम के घंटे और कालावधि तथा विकास के वे अन्तराल जिनका वह हकदार है।
- ग) किसी ऐसे बालक के काम की प्रकृति और
- घ) ऐसी अन्य जानकारियां जो प्रस्तावित की जाएं।

12. धारा 3 और धारा 14 के सारांश दिखानेवाली नोटिस का प्रदर्शन

प्रत्येक रेल प्रशासन, प्रत्येक बंदरगाह प्राधिकारी और प्रत्येक मालिक, यथास्थिति अपने रेल्वे स्टेशन या किसी बंदरगाह की सीमाओं के भीतर या काम के स्थल पर किसी सहजदृश्य और सुगम स्थान पर स्थानीय भाषा में और अंग्रेजी भाषा में, इस अधिनियम की धारा 3 और धारा 3 के सारांश

13. स्वाचस्थ और सुरक्षा

- 1) समुचित सरकार राजपत्र में अधिसूचना द्वारा किसी प्रतिष्ठान या किसी वर्ग के प्रतिष्ठानों में काम करने के लिए नियोजित बालकों के स्वास्थ्य और सुरक्षा के लिए नियम बना सकेगी।
- 2) पूर्वगामी प्रावधानों की व्यापकता पर प्रतिकूल प्रभाव डाले और उक्त नियम निम्नलिखित सभा या किन्हीं विषयों के लिए लागू किये जा सकते हैं:
 - क) काम के स्थल पर सफाई और उसकी असुरक्षाओं से मुक्ति
 - ख) कूड़ा-करकट और अवरोधों का निबटारा
 - ग) हवादार और तापमान
 - घ) धूल और धुआं
 - ङ) कृत्रिम नमीकरण
 - च) प्रकाश
 - छ) पीने का पानी
 - ज) शौचालय और मूत्रालय
 - झ) थुकदान
 - मशीनरी पर बाड़ लगाना
 - ट) मशीनरी के गतिमान होने पर उस पर या उसके निकट काम
 - ठ) खतरनाक मशीनों पर बालकों का नियोजन
 - ड) खतरनाक मशीनों पर बालकों के नियोजन के संबंध में अनुदेश, प्रशिक्षण और पर्यवेक्षण
 - ढ) बिजली काटने के तरीके
 - ण) स्व-अनुशासित मशीनें
 - त) नई मशीनरी की शुरूआत
 - थ) फर्श, सीढियां और पहुंचने के साधन
 - द) गर्त, चौबच्चे, फर्श आदि
 - ध) अत्यधिक वजन
 - न) आंखों का संरक्षण
 - प) विस्फोटक या ज्वलनशील धूल, गैर आदि
 - फ) आग लगने की स्थिति में सावधानियां
 - ब) भवनों का अनुरक्षण, और
 - भ) भवनों और मशीनरी की सुरक्षा।

भाग-4

मिश्रित

14. सजाएं

- 1) जो कोई किसी बालक को धारा 3 के उपबंधों के उल्लंघन में नियोजित करेगा या काम करने के लिए लाएगा, वह कारावास, जिसकी अवधि तीन मास से कम नहीं होगी, किन्तु जो एक वर्ष तक की होगी, या जुर्माना, जो दस हजार रूपए

से कम का नहीं होगा, किन्तु जो बीस हजार रूपए तक का होगा अथवा दोनों से, दंडनीय होगा।

- 2) जो कोई धारा 3 के अधीन किसी अपराध का दोषी ठहराया जाएगा और तत्पश्चात वैसा ही अपराध करेगा, वह कारावास, जिसकी अवधि छह मास से कम नहीं होगी, किन्तु जो दो वर्ष तक की होगी दंडनीय होगा।

- 3) जो कोई -

क) धारा 9 द्वारा अपेक्षित सूचना देने में असफल रहेगा, या

ख) धारा 11 की अपेक्षानुसार रजिस्टर रखने में असफल रहेगा या किसी ऐसे रजिस्टर में झूठी जानकारी भरेगा, या

ग) धारा 12 की अपेक्षानुसार धारा 3 और इस धारा के सारांश को प्रदर्शित करने में असफल रहेगा, या

घ) इस अधिनियम या उसके अधीन बनाए गए नियमों के किन्हीं अन्य प्रावधानों का अनुपालन करने में असफल रहेगा या उनका उल्लंघन करेगा,

वह सादा कारावास से, जिसकी अवधि एक मास तक की हो सकेगी, या जुर्माने से, जो इस हजार रूपए तक का हो सकेगा, अथवा दोनों से, दंडनीय होगा।

15. सजाओं के संबंध में कुछ कानूनों को संशोधित रूप में लागू करना

- 1) जहां कोई व्यक्ति उपधारा(2) के अधीन उल्लिखित प्रावधानों में से किसी के उल्लंघन का दोषी पाया जाता है और दोषी ठहराया जाता है वहां वह इस अधिनियम की धारा 14 की उपधारा (1) और उपधारा (2) में उपबंधित रूप से सजाओं का दायी होगा।

- 2) उपधारा (1) में उल्लेखित प्रावधान निम्नलिखित है:

क) कारखाना अधिनियम 1948 (1948 का 63) की धारा 67

ख) खान अधिनियम 1952 (1952 का 35) की धारा 40

ग) वाणिज्य पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 109 और

घ) मोटर परिवहन कर्मकार अधिनियम 1961 (1961 का 27) की धारा 2।

16. अपराधों से संबंधित प्रक्रियाएं

- 1) कोई व्यक्ति, पुलिस अधिकारी या निरीक्षक इस अधिनियम के अधीन अपराध किए जाने का परिवाद सक्षम अधिकार वाले किसी न्यायालय में कर सकेगा।
- 2) किसी बालक की आयु के बारे में प्रत्येक प्रमाणपत्र, जो प्रस्तावित चिकित्सा प्राधिकारी द्वारा दिया गया है, इस अधिनियम के प्रयोजनों के लिए, बालक की आयु के बारे में स्पष्ट साक्ष्य होगा।
- 3) महानगर मजिस्ट्रेट या प्रथम वर्ग मजिस्ट्रेट के न्यायालय से अवर कोई न्यायालय इस अधिनियम के अधीन किसी अपराध का विचार नहीं करेगा।

17. निरीक्षकों की नियुक्ति

समुचित सरकार इस अधिनियम के प्रावधानों का अनुपालन सुनिश्चित करने के प्रयोजनों के लिए निरीक्षक नियुक्त कर सकेगी और इस प्रकार किया गया कोई निरीक्षक भारतीय दंड संहिता (1860 का 45) के अर्थ में लोक सेवक समझा जाएगा।

18. नियम बनाने के अधिकार

- 1) समुचित सरकार, इस अधिनियम के उपबंधों को कार्यान्वित करने के लिए, राजपत्र में अधिसूचना द्वारा और पूर्व प्रकाशन की शर्तों के अधीन रहते हुए नियम बना सकेगी।
- 2) पूर्वगामी अधिकारों, की व्यापकता पर प्रतिकूल प्रभाव डाले बिना निम्नलिखित सभी या किन्हीं विषयों पर प्रावधान लागू किया जा सकेगा।
 - क) बाल श्रम तकनीकी सलाहकार समिति के अध्यक्ष और सदस्यों की पदावधि, उनकी आकस्मिक रिक्तियों को भरने की रीति और उनको संदेय भत्ते तथा वे शर्तें और प्रतिबंध जिनके अधीन रहते हुए कोई ऐसा व्यक्ति जो सदस्य नहीं है, धारा 5 की उपधारा (5) के अधीन किसी उपसमिति में नियुक्त किया जा सकेगा।
 - ख) उन घंटों की संख्या, जिनके लिए किसी बालक को धारा 7 की उपधारा (1) के अधीन काम करने के लिए लगाया जा सकेगा।
 - ग) नियोजन में या नियोजन चाहने वाले अल्पव्यव्यक्तियों के संबंध में आयु का प्रमाणपत्र दिया जाना। चिकित्सा प्राधिकारी, जो ऐसा प्रमाणपत्र दे सकेंगे, ऐसे प्रमाणपत्र का प्रारूप, वे प्रभार जो उसके अधीन दिए जा सकेंगे और वह रीति जिससे ऐसा प्रमाणपत्र दिया जा सकेगा।

घ) अन्य चीजें जो धारा 11 के अधीन रखे गए रजिस्टर में होनी चाहिए।

19. संसद या राज्य विधान-मंडल के सामने प्रस्तुत होनेवाले नियम और अधिसूचना

- 1) इस अधिनियम के अधीन केन्द्र सरकार द्वारा बनाया गया प्रत्येक नियम और धारा 4 के अधीन निकाली गई प्रत्येक अधिसूचना बनाए या निकाले जाने के पश्चात यथाशिघ्र संसद के प्रत्येक सदन के समक्ष, जब वह सत्र में हो, कुल तीस दिन की अवधि के लिए रखी जाएगी। यह अवधि एक सत्र में अथवा दो या अधिक आनुक्रमिक सत्रों में पूरी हो सकेगी। यदि उस सत्र के या पूर्वोक्त आनुक्रमिक सत्रों में पूरी हो सकेगी। यदि उस सत्र के या पूर्वोक्त आनुक्रमिक सत्रों के ठीक बाद के सत्र के अवसान के पूर्व दोनों सदन उस नियम या अधिसूचना में कोई परिवर्तन करने के लिए सहमत हो जाए तो इसके बाद वह ऐसे परिवर्तित रूप में ही प्रभावी होगी। यदि उक्त अवसान के पूर्व दोनों सदन सहमत हो जाएं कि वह नियम नहीं बनाया जाना चाहिए या वह अधिरचना नहीं निकाली जानी चाहिए, तो इसके बाद वह निष्प्रभाव हो जाएगी। किन्तु नियम या अधिसूचना के ऐसे परिवर्तित या निष्प्रभाव होने से उसके अधीन पहले की गई किसी बात की वैधता पर प्रतिकूल प्रभाव नहीं पड़ेगा।
 - 2) इस अधिनियम के अधीन राज्य-सरकार द्वारा बनाया गया प्रत्येक नियम, उस राज्य के विधान-मंडल के समक्ष जल्द-से-जल्द रखा जाएगा।
20. कानून के कुछ अन्य प्रावधानों का वर्जित न होना
धारा 15 के प्रावधानों के अधीन रहते हुए इस अधिनियम और उसके अधीन बनाए गए नियमों के प्रावधान कारखाना अधिनियम 1948 (1948 का 63), बागान श्रम अधिनियम, 1951 (1951 का 69) और खान अधिनियम, 1951 (1952 का 35) के प्रावधानों के अतिरिक्त होंगे।
21. कठिनाइयों को दूर करने के अधिकार
- 1) यदि इस अधिनियम के प्रावधानों को कार्यान्वित करने में कठिनाई उत्पन्न होती है तो केन्द्र सरकार, राजपत्र में प्रकाशित आदेश द्वारा ऐसे प्रावधान कर सकेगी जो इस अधिनियम के प्रावधानों से असंगत नहीं हैं और जो उसे कठिनाई दूर करने के लिए आवश्यक या सामायिक प्रतीत होते हैं।

परन्तु कोई ऐसा आदेश उस तारीख से, जब से इस अधिनियम को राष्ट्रपति की अनुमति प्राप्त होती है, तीन वर्ष कालावधि की समाप्ति के बाद नहीं किया जाएगा।

2) इस धारा के अधीन निकाला गया प्रत्येक आदेश निकाले जाने के पश्चात् यथाशीघ्र संसद के प्रत्येक सदन के समक्ष रखा जाएगा।

22. निरस्त और बचाव करना

1) बालक नियोजन अधिनियम, 1938 (1938 का 26) इसके द्वारा निरस्त किया जाता है।

2) इस प्रकार निरस्त अधिनियम के अधीन की गई कोई बात या कार्यवाई जहां तक वह इस अधिनियम के प्रावधानों से असंगत नहीं है, इस अधिनियम के प्रावधानों के अधीन की गई समझी जाएगी।

23. 1948 के अधिनियम 11 का संशोधन

1) न्यूनतम मजदूरी अधिनियम, 1948 की धारा 2 में -

2) खंड (क) के स्थान पर निम्नलिखित खंड रखे जाएंगे

क) "कुमार" से मतलब ऐसा व्यक्ति है, जिसने अपनी आयु का चौदहवां वर्ष पूरा कर लिया है, किन्तु अपना अठारहवां वर्ष पूरा नहीं किया है।

ख) "वयस्क" से मतलब ऐसा व्यक्ति है, जिसने अपने आयु का अठारवां वर्ष पूरा कर लिया है।

3) खंड (ख) के पश्चात् निम्नलिखित खंड अंतःस्थापित किया जाएगा, अर्थात् (ख) "बालक" से मतलब ऐसा व्यक्ति है, जिसने अपनी आयु का चौदहवां वर्ष पूरा नहीं किया है।

24. 1951 के अधिनियम 69 का संशोधन-बागान श्रम अधिनियम, 1951 में

क) धारा 2 के खंड (क) और खंड (ग) में "पन्द्रहवां" शब्द के स्थान पर "चौदहवां" शब्द रखा जाएगा।

ख) धारा 24 का लोप किया जाएगा।

ग) धारा 26 के प्रारंभिक भाग में, "जिसने अपना बारहवां वर्ष पूरा कर लिया हो।" शब्दों का लोप किया जाएगा।

25. 1958 के अधिनियम 44 का संशोधन

वाणिज्य पोत परिवहन अधिनियम 1958 की धारा 109 में, "पन्द्रह" शब्द के स्थान पर "चौदह"

शब्द रखा जाएगा।

26. 1961 के अधिनियम 27 संशोधन

मोटर परिवहन कर्मकार अधिनियम 1961 की धारा 2 के खंड (क) और खंड (ग) में से प्रत्येक में "पन्द्रहवां" शब्द के स्थान पर "चौदहवां" शब्द रखा जाएगा।

अनुसूची (धारा 3 देखिए) भाग क-जीविकाएं

निम्न चीजों से सम्बन्धित है :

- 1) रेल द्वारा यात्री, माल या डाक का परिवहन।
- 2) रेलवे परिसरों में सिडर चुनना, राख साफ करना या भवन बनना।
- 3) किसी रेलवे स्टेशन पर खानपान प्रतिष्ठान में काम, जिसमें एक प्लेटफार्म से दूसरे प्लेटफार्म पर या किसी गतिमान गाड़ी में या उसके बाहर किसी कर्मचारी का काम शामिल है।
- 4) रेलवे स्टेशन के निर्माण से संबंधित काम या ऐसा काम जो रेल लाइनों के निकट या उनके बीच में किया जाता है, या संबंधित कार्य।
- 5) किसी बंदरगाह की सीमाओं के भीतर कोई बंदरगाह प्राधिकारी।

भाग ख-प्रक्रियाएं

- 1) बीड़ी बनाना।
- 2) कालीन बुनना।
- 3) सीमेंट बनाना, जिसमें सीमेंट बोरियों में भरना शामिल है।
- 4) कपड़ा छपाई, रंगाई और बुनाई।
- 5) दिया सिलाई, विस्फोटक और आतिशबाजी का निर्माण।
- 6) अवरक काटना और तोड़ना।
- 7) चमड़ा निर्माण।
- 8) साबुन निर्माण।
- 9) चर्मशोधन।
- 10) ऊन की सफाई।
- 11) भवन और निर्माण उद्योग।
- 12) स्लेट पैसिल का निर्माण (पैकिंग समेत)
- 13) अगेट के उत्पादों का निर्माण।
- 14) जहरीले पदार्थ, धातु और शीशा, पारा, मैंगनीज, क्रोमीयम, कैडमीयम, बेनजीन, कीटनाशक और एसबेस्टस जैसी चीजों से होने वाली निर्माण प्रक्रियाएं।

बाल श्रम (प्रतिबंध और नियमन) नियम 1988
(भारत के राजपत्र में प्रकाशित, असाधारण, भाग-2, खण्ड-3,
दिनांक 10-8-1988, पृष्ठ 4-6, अधिसूचना नम्बर 847 (ई) के अधीन)

केन्द्र सरकार ने अधिनियम की धारा 18 की उप-धारा 1 के तहत अपने अधिकारों का उपयोग करते हुए निम्न नियम बनाये हैं -

1. संक्षिप्त नाम और प्रारम्भ

- 1) इन नियमों का संक्षिप्त नाम बाल श्रम (प्रतिबंध और नियमन) नियम, 1988 है।
- 2) ये राजपत्र में प्रकाशन की तारीख से लागू होंगे।

2. परिभाषाएं - इन नियमों में, जब तक संदर्भ से अन्यथा अपेक्षित न हो -

- क) "अधिनियम" से मतलब बाल श्रम (प्रतिबंध और नियमन) अधिनियम, 1986 (1986 का 61) है।
- ख) "समिति" से मतलब अधिनियम की धारा 5 की उपधारा (1) के अधीन गठित बाल श्रम तकनीकी सलाहकार समिति है।
- ग) "अध्यक्ष" से मतलब धारा 5 की उपधारा (2) के अधीन नियुक्त समिति का अध्यक्ष है।
- घ) "प्रारूप" से मतलब इन नियमों से संलग्न प्रारूप है।
- ङ) "रजिस्टर" से मतलब अधिनियम की धारा 11 के अधीन रखे जाने के लिए अपेक्षित रजिस्टर है।
- च) "अनुसूची" से मतलब अधिनियम से संलग्न अनुसूची है।
- छ) "धारा" से मतलब अधिनियम की धारा है।

3. समिति के सदस्यों की पदावधि

- 1) समिति के सदस्यों की पदावधि राजपत्र में उनकी नियुक्ति अधिसूचित की जाने की तारीख से एक वर्ष की होगी।

परन्तु केन्द्र सरकार समिति के सदस्य की पदावधि अधिकतम दो वर्ष के लिए बढ़ा सकेगी। पर सदस्य अपनी पदावधि के समाप्त होने पर भी तब तक पद पर बना रहेगा जब तक उसका उत्तरवर्ती अपना पद ग्रहण नहीं कर लेता है।

- 2) उपनियम (1) के अधीन नियुक्त सदस्य पुनर्नियुक्ति के पात्र होंगे।

4. समिति का सचिव

केन्द्र सरकार ऐसे व्यक्ति को, जो भारत सरकार के अवर सचिव से नीचे का न हो, समिति के सदस्य के रूप में नियुक्त कर सकेगी।

5. गैर-सरकारी सदस्यों को भत्ते

समिति के गैर-सरकारी सदस्यों की, ऐसी फीस और भत्ते दिए जाएंगे, जो केन्द्र सरकार के चार हजार पांच सौ रूपये या उससे अधिक वेतन पाने वाले अधिकारियों को मिलते हैं।

6. त्यागपत्र

- 1) कोई सदस्य, अध्यक्ष को संबोधित अपने हस्ताक्षर युक्त पत्र द्वारा अपना पद त्याग सकेगा।
- 2) अध्यक्ष, केन्द्र सरकार को संबोधित अपने हस्ताक्षर युक्त पत्र द्वारा अपना पद त्याग सकेगा।
- 3) उपनियम (1) और उपनियम (2) में दिये गये त्यागपत्र, अध्यक्ष या केन्द्रीय सरकार द्वारा स्वीकार किए जाने की तारीख से या ऐसे त्यागपत्र की प्राप्ति की तारीख से तीस दिन की समाप्ति पर, इनमें से जो भी पहले हो, प्रभावी होंगे।

7. समिति के अध्यक्ष या सदस्य का हटाया जाना

केन्द्र सरकार, समिति के अध्यक्ष या किसी भी सदस्य को पदावधि की समाप्ति के पूर्व हटा सकती है। यह हटाने का कारण बताएगी और इसके खिलाफ जवाब देने का पर्याप्त अवसर देगी।

8. सदस्यता की समाप्ति

यदि कोई सदस्य -

- क) समिति की लगातार तीन या अधिक बैठकों में अध्यक्ष की अनुमति के बिना अनुपस्थित रहता है, या
- ख) किसी सक्षम न्यायालय द्वारा असंतुलित दिमाग का घोषित किया जाता है, या
- ग) किसी ऐसे अपराध के लिए दोषी ठहराया जाता है या ठहराया गया है जिसमें केन्द्र सरकार की राय में नैतिक पतन निहित है, या
- घ) दिवालिया निर्णीत किया जाता है या किसी

समय किया गया है या उसने ऋण निलंबित कर दिए हैं या अपने लेनदारों के साथ समझौता कर लिया है तो, वह समिति का सदस्य नहीं रहेगा।

9. आकस्मिक रिक्तियों का भरा जाना

यदि कोई सदस्य नियम 6 के अधीन अपना पद त्यागता है, या नियम 8 के अधीन सदस्य नहीं रहता है, तो इस प्रकार होने वाली आकस्मिक रिक्ति केन्द्र सरकार द्वारा भरी जाएगी और इस प्रकार नियुक्त सदस्य अपने पूर्वधिकारी की अवधि के शेष भाग के लिए पद धारण करेगा।

10. बैठकों का समय और स्थान

समिति ऐसे समयों और स्थानों पर बैठक करेगी, जिसे अध्यक्ष नियत करे।

11. बैठकों की सूचना

समिति का सचिव प्रत्येक बैठक के लिए नियत समय और स्थान की कम से कम 7 दिन की सूचना उक्त बैठक में किए जाने वाले काम काज की सूची के साथ समिति के प्रत्येक सदस्य को देगा।

12. बैठकों की अध्यक्षता

अध्यक्ष समिति की प्रत्येक बैठक की, जिसमें वह उपस्थित हो, अध्यक्षता करेगा, किन्तु यदि अध्यक्ष किसी बैठक में उपस्थित होने में असमर्थ है तो उपस्थित सदस्यों द्वारा अपने में से निर्वाचित कोई सदस्य बैठक की अध्यक्षता करेगा।

13. कोरम

समिति की किसी बैठक में, जब तक अध्यक्ष और सचिव के अतिरिक्त समिति के कम से कम तीन सदस्य उपस्थित न हों, कोई कामकाज नहीं किया जाएगा।

पर किसी ऐसी बैठक में, जिसमें कुल सदस्यों में से तीन से कम सदस्य उपस्थित हैं, अध्यक्ष बैठक को किसी अन्य तारीख के लिए, स्थगित कर सकेगा और उपस्थित सदस्यों को सूचित तथा अन्य सदस्यों को अधिसूचित कर सकेगा कि नियत बैठक का कारबार कोरम का ध्यान दिए बिना निपटाया जाएगा। यह विधिपूर्वक होगा कि ऐसी बैठक में कामकाज का निपटारा बैठक में उपस्थित सदस्यों की संख्या पर ध्यान दिए बिना किया जाए।

14. बहुमत द्वारा निर्णय

समिति की बैठक में सभी प्रश्नों का निर्णय उपस्थित और मत देने वाले सदस्यों के बहुमत से किया जाएगा और मत बराबर होने की स्थिति में

अध्यक्ष का या अध्यक्ष की अनुपस्थिति में बैठक की अध्यक्षता करने वाले सदस्य का दूसरा या निर्णायक मत होगा।

15. उपसमितियां

समिति उन प्रयोजनों के लिए, जिनका वह निर्णय करे, एक या अधिक उपसमितियों का गठन कर सकेगी। वह गठन केवल समिति के सदस्यों से हो या अंशतः समिति के सदस्य और अंशतः ऐसे अन्य सदस्यों से हो जिन्हें वह ठीक समझे। इस प्रकार गठित उपसमिति ऐसे काम करेगी जो उसे समिति द्वारा नियोजित किए जाए।

16. अधिनियम की धारा 11 के अधीन रजिस्टर का रखा जाना

- 1) प्रतिष्ठान का प्रत्येक मालिक काम करने के लिए नियोजित बालकों के संबंध में एक रजिस्टर प्ररूप "क" में रखेगा।
- 2) रजिस्टर वार्षिक आधार पर रख जाएगा किन्तु नियोजक उसमें की गई अंतिम प्रविष्टि की तारीख के पश्चात तीन वर्ष तक उसे अपने पास रखेगा।

17. आयु का प्रमाणपत्र

- 1) उन सभी नियोजित कमवय व्यक्तियों का जो अनुसूची के भाग "क" में वर्णित किसी जीविका में या किसी ऐसी कर्मशाला में जिसमें अनुसूची के भाग "ख" में वर्णित कोई प्रक्रिया की जाती है, समुचित चिकित्सा प्राधिकारी का आयु प्रमाणपत्र निरीक्षक के मांगने पर प्रस्तुत करेंगे।
- 2) उपनियम (1) में उल्लेखित आयु प्रमाणपत्र प्ररूप "ख" में जारी किया जाएगा।
- 3) ऐसा प्रमाणपत्र जारी करने के लिए चिकित्सा प्राधिकारी को वही मानदंड मिलेंगे जो राज्य सरकार या केन्द्रीय सरकार द्वारा अपने - अपने चिकित्सा बोर्डों के लिए प्रस्ताविक किए गए हैं।
- 4) चिकित्सा प्राधिकारी का यह मानदंड नियोजक द्वारा वहन किया जाएगा।

स्पष्टीकरण

उपनियम (1) के प्रयोजन के लिए समुचित "चिकित्सा प्राधिकारी" ऐसा सरकारी डाक्टर होगा, जो किसी जिले के सहायक सर्जन की पंक्ति से नीचे का न हो या जो कर्मचारी राज्य बीमा औपधालयों या अस्पतालों में नियोजित बराबर का नियमित डाक्टर हो।

प्ररूप 'क'
(नियम 16 (1) देखिए)

वर्ष

नियोजक का नाम और पता कार्य स्थल

प्रतिष्ठान में किए जाने वाले काम की प्रकृति

क्रम सं	बालक का नाम	पिता का नाम	जन्म की तारीख	स्थायी पता	प्रतिष्ठान में कार्य शुरू करने की तारीख
1	2	3	4	5	6

काम की प्रकृति जिस पर वह नियोजित है	दैनिक काम के घंटे	विश्राम के अंतराल	दी गई मजदूरी	टिप्पणियां
7	8	9	10	11

प्ररूप "ख"
(नियम 17 (2) देखिए)

प्रमाणपत्र संख्या

में प्रमाणित करता हूँ कि मैंने श्री

(नाम) जो का पुत्र/पुत्री है और

का/की निवासी है, की व्यक्तिगत रूप से परीक्षा कर ली है और उसने अपना चौदहवां वर्ष पूरा कर लिया है और उसकी आयु जो मेरी परीक्षा करने पर भली भांति निश्चित की जा सकती है वर्ष (संपूर्ण) है।

उसका पहचान चिन्ह है।

बालक के अंगूठे की छाप / हस्ताक्षर

स्थान :

दिनांक :

चिकित्सा प्राधिकारी

पदनाम

अधिसूचनाएं

(1)

श्रम मंत्रालय, अधिसूचना नम्बर एस.ओ. 757 (ई) दिनांक 3 अगस्त 1987, भारत के राजपत्र में प्रकाशित, असाधारण, भाग-2, खंड-3, दिनांक 3 अगस्त 1987, पृष्ठ-2, (नम्बर एस-27025/60/86-सी एल)

केन्द्र सरकार ने बाल श्रम (प्रतिबंध और नियमन) अधिनियम 1986 की धारा 1 की उपधारा (3) के अधिकारों का उपयोग करते हुए बच्चों की काम की स्थितियों के नियमन के लिए राज्यों/केन्द्र शासित क्षेत्रों की निम्न प्रक्रियाओं पर अधिनियम के भाग तीन के प्रावधान लागू किये हैं।

1. जरी और कशीदाकारी - दिल्ली और उत्तर प्रदेश।
2. बेशकीमती पत्थरों की पॉलिश - गुजरात और राजस्थान।

3. स्लेट और स्लेट पेंसिल निर्माण - मध्य प्रदेश और आंध्र प्रदेश।

श्रम मंत्रालय, अधिसूचना नम्बर एस ओ 593 (ई), दिनांक 28 जुलाई 1989, भारत के राजपत्र में प्रकाशित असाधारण, भाग दो खंड तीन, दिनांक 28 जुलाई 1989, पृष्ठ-2 (एक नम्बर एस - 27025/49/89-सी एल)

बाल श्रम (प्रतिबंध और नियमन) अधिनियम 1986 (1986 का 61) की धारा 17 के अधिकारों के अनुसार केन्द्र सरकार ने केन्द्र सरकार या रेलवे प्रशासन या महत्वपूर्ण बंदरगाह या तेल क्षेत्र के अधीन हर प्रतिष्ठान में निम्नलिखित अधिकारियों को निरीक्षक नियुक्त किया है।

1. मुख्य श्रम आयुक्त (केन्द्रीय)
2. सभी उप श्रम आयुक्त (केन्द्रीय)
3. सभी क्षेत्रीय श्रम आयुक्त (केन्द्रीय)
4. सभी सहायक श्रम आयुक्त (केन्द्रीय)
5. सभी श्रम प्रवर्तन अधिकारी



बिहार राज्य बाल श्रमिक आयोग विधेयक, 1996

The Bihar Commission on Child Labour was setup in 1996, after three years of relentless efforts by activists of the CACL. Concened lobbying, dialogue and debates were conducted by CACL - Bihar to pressurize the Government in setting its priorities for the eradication of Child Labour.

The Government of Bihar eventually relented to this pressure and announced, in 1995 that a Commission on Child Labour would be setup. For the CACL - Bihar, a

horizon had been reached but the activists are now busy catching another horizon - ensuring that the Commission is responsive and active.

Throughout this effort for setting up the Commission, the positive and pro-active support of Shri. Jabir Hussain, Hon. Speaker, Bihar Assembly has to be acknowledged.

Following is the Government order, announcing the setting up of Commission which is chaired the by Hon. Chairperson, Sri Kumar Vimal, an eminent writer.

विषय-सूची

खण्ड

1. संक्षिप्त नाम, विस्तार और प्रारंभ
2. परिभाषाएं
3. आयोग का मुख्यालय
4. आयोग का गठन
5. आयोग की अवधि
6. कार्यकारिणी समिति
7. आयोग के कृत्य
8. परिस्थिति (हैसियत) और उपलब्धियां
9. आयोग की रिक्तियों का भरा जाना या इसके गठन में फेरबदल
10. अध्यक्ष आदि लोक सेवक होंगे
11. आयोग के कर्मचारी वृन्द
12. प्रतिवेदन प्रस्तुत करना
13. नियमावली बनाने की शक्ति

बिहार राज्य बाल श्रमिक आयोग विधेयक, 1996

राज्य के बाल श्रमिकों के निवारण, कल्याण तथा पुनर्वास सुनिश्चित करने के लिए तथा उससे संबंध अन्य मामले के लिए आयोग गठित करने के उपबंध करने हेतु विधेयक।

भारत गणराज्य के सैतालीसवें वर्ष बिहार राज्य विधान मंडल द्वारा निम्नलिखित रूप से यह अधिनियमित हो :

1. संक्षिप्त नाम, विस्तार और प्रारंभ -
 1. यह अधिनियम बिहार राज्य बाल श्रमिक आयोग अधिनियम, 1996 कहा जा सकेगा।
 2. इसका विस्तार संपूर्ण बिहार राज्य में होगा।
 3. यह तुरंत प्रवृत्त होगा।

2. परिभाषाएं - इस अधिनियम में, जबतक संदर्भ में अन्यथा अपेक्षित न हो -

क) "आयोग" से अभिप्रेत है इस अधिनियम की धारा-4 के अधीन गठित बिहार राज्य बाल श्रमिक आयोग,

ख) "सरकार" से अभिप्रेत है बिहार राज्य की सरकार,

ग) "बाल श्रमिक" से अभिप्रेत है कोई ऐसा व्यक्ति जो मजदूरी के लिए काम करता हो और जिसकी उम्र चौदह (14) वर्ष पूरी नहीं हो,

घ) "विहित" से अभिप्रेत है इस अधिनियम के अधीन बनाए गए नियमों द्वारा विहित,

ड) "लोक सेवक" से अभिप्रेत है और इसमें शामिल है-

i) ऐसा व्यक्ति जो राज्य के कार्यकलाप के संबंध में किसी लोक सेवा या पद पर नियुक्त हो,

ii) ऐसा व्यक्ति जो सेवारत हो अथवा वेतन क) राज्य के किसी ऐसे स्थानीय प्राधिकार से प्राप्त करता हो जो राजपत्र में अधिसूचित हो,

ख) राज्य द्वारा या उसके अधीन और राज्य सरकार के स्वामित्ववाले या उसके द्वारा नियंत्रित किसी बोर्ड या निगम से प्राप्त करता हो,

ग) सरकारी सोसाइटी अधिनियम, 1994 या सोसाइटी रजिस्ट्रीकरण अधिनियम, 1860 के अधीन रजिस्ट्रीकृत किसी ऐसी सोसाइटी से प्राप्त करता हो जो राज्य सरकार के नियंत्रणाधीन हो और राजपत्र में इस

निमित्त राज्य सरकार द्वारा अधिसूचित हो,
घ) परिसंकटमय (खतरनाक) प्रक्रिया का अर्थ वही होगा जो कारखाना अधिनियम, 1948 में समानुदेशित है।

3. आयोग का मुख्यालय-

1. आयोग का मुख्यालय पटना में स्थापित किया जाएगा।
2. सरकार राजपत्र में प्रकाशित अधिसूचना द्वारा राज्य के किसी अन्य स्थान में आयोग के एक या उससे अधिक कार्यालयों की स्थापना कर सकेगी।

4. आयोग का गठन -

1. सरकार इस अधिनियम के उद्देश्य को कार्यान्वित करने के प्रयोजनार्थ बिहार राज्य बाल श्रमिक आयोग नामक एक आयोग का गठन करेगी।
2. आयोग में अध्यक्ष, उपाध्यक्ष और बीस सदस्य होंगे, जिनमें से पांच विधानमंडल के सदस्य रहेंगे जो विधानसभा अध्यक्ष व विधान परिषद के सभापति द्वारा मनोनीत किये जायेंगे। तथा अन्य पाँच सदस्यों का राज्य सरकार द्वारा नाम निर्दिष्ट किया जाएगा और शेष दस पदेन सदस्य होंगे।

3. क) अध्यक्ष और उपाध्यक्ष समाज विज्ञान के ख्यातिप्राप्त शिक्षाविद् होंगे अथवा कला/संस्कृति/समाज-विज्ञान/समाज सेवा के क्षेत्र में विशिष्टता प्राप्त व्यक्ति होंगे।

ख) सदस्यों का नाम निर्देशन श्रमायुक्त, बिहार और सचिव, श्रम, नियोजन एवं प्रशिक्षण विभाग (बिहार सरकार) की अनुशांसा पर निम्नलिखित के प्रतिनिधियों से किया जाएगा।

i) नियोजक के प्रतिनिधि के रूप में बिहार चैम्बर ऑफ कामर्स के एक प्रतिनिधि,

ii) श्रमिक संघ का प्रतिनिधि,

iii) बाल श्रमिकों के कल्याण में लगे हुए, गैर सरकारी संगठनों का प्रतिनिधि

iv) अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़ा वर्गों का प्रतिनिधि

v) अल्पसंख्यकों का प्रतिनिधि

ग) पदेन सदस्य -

- i) श्रमायुक्त, बिहार,
- ii) निदेशक, कल्याण विभाग, बिहार,
- iii) संयुक्त सचिव, वित्त विभाग, बिहार
- iv) संयुक्त सचिव, ग्रामीण विकास विभाग, बिहार,
- v) निदेशक, प्राथमिक शिक्षा, बिहार,
- vi) मुख्य कारखाना निरीक्षक, बिहार,
- vii) निदेशक, जन शिक्षा, बिहार,
- ix) निदेशक प्रमुख, स्वास्थ्य विभाग, बिहार,
- x) निदेशक, नगर विकास विभाग, बिहार।

5. आयोग की अवधि -

नाम निर्दिष्ट अध्यक्ष या आयोग के सदस्य की पदावधि, कार्यालय में उसके प्रभार ग्रहण करने की तारीख से तीन वर्षों की अवधि के लिए होगी, किन्तु एक ही व्यक्ति अध्यक्ष/उपाध्यक्ष/गैर सरकारी सदस्य के पद पर लगातार दो बार से अधिक मनोनीत/नियुक्त नहीं किया जाएगा। आयोग का अध्यक्ष, उपाध्यक्ष या कोई सदस्य सरकार को संबोधित स्वहस्ताक्षरित लेख द्वारा अपने से त्याग पत्र दे सकेगा।

6. कार्यकारिणी समिति -

आयोग के नीतिगत मामलों को छोड़कर अन्य मामलों पर विचार कर स्वीकृति प्रदान करने हेतु एक कार्यकारिणी समिति होगी, जिसके निम्नांकित सदस्य होंगे -

1. आयोग के अध्यक्ष,
2. आयोग के उपाध्यक्ष,
3. आयोग के सचिव,
4. श्रमायुक्त बिहार,
5. मुख्य कारखाना निरीक्षक,
6. निदेशक, प्राथमिक शिक्षा,
7. राज्य सरकार द्वारा मनोनीत श्रमिक संघ के एक प्रतिनिधि,
8. बिहार चैम्बर ऑफ कॉमर्स द्वारा मनोनीत एक प्रतिनिधि,
9. बाल श्रमिक कल्याण कार्यों में लगे एक ख्याति प्राप्त स्वैच्छिक संस्था का एक प्रतिनिधि,

7. आयोग के कृत्य -

आयोग के निम्नलिखित कृत्य होंगे :

- क) बाल श्रमिकों के कल्याण के लिए भारत सरकार तथा राज्य सरकार द्वारा पारित विभिन्न विधियों के कार्यान्वयन की समीक्षा करना,

- ख) उप-खण्ड (क) में यथा उल्लिखित विधियों के कारगर क्रियान्वयन तथा प्रवर्तन को सुनिश्चित करने की दृष्टि से सिफारिश करना,
- ग) बाल श्रमिक प्रथा के कारण तथा निवारण और निदान संबंधी परलुओं की जांच के लिए समितियां गठन करना, आयोग अपने कर्तव्यों के प्रति उपेक्षा बरतनेवाले सरकारी कर्मचारियों के विरुद्ध समुचित कार्रवाई करने की सिफारिश कर सकेगा,
- घ) बाल श्रमिक अधिकारों, कल्याण तथा पुनर्वास कार्यक्रम के क्षेत्र में काम करने वाले गैर सरकारी संगठनों और शैक्षणिक संस्थाओं को सहायता तथा प्रोत्साहन प्रदान करना,
- ङ) सभी बाल श्रमिकों के लिए अनिवार्य, निःशुल्क व्यावसायिक प्रशिक्षण तथा कार्यान्मुखी शिक्षा के वृहत् कार्यक्रम की तैयारी और क्रियान्वयन में शिक्षा विभाग को सलाह देना,
- च) ऐसे क्रिया-कलाप शुरू करना जो बाल श्रमिक प्रथा के नकारात्मक पहलुओं के बारे में बाल श्रमिकों के माता-पिता और उनके नियोजकों सहित सामान्यजन के बीच जागरूकता पैदा करने के लिए आवश्यक समझे जाएं,
- छ) बाल श्रमिकों के कल्याण के लिए अध्ययन, शोध एवं विश्लेषण का संचालन करना तथा सिफारिश करना,
- ज) विहित अंतराल पर सरकार के पास आवधिक प्रतिवेदन भेजना,
- झ) राज्य के परिसंकटमय (खतनाक) तथा गैर-परिसंकटमय व्यवसायों में लगे हुए बाल श्रमिकों से संबंधित तथ्यों एवं आंकड़ों का संग्रह, संकलन और प्रकाशन करना,
- ञ) बाल श्रमिकों के विकास, संवृद्धि तथा पुनर्वास केन्द्र के रूप में चरवाहा विद्यालयों को बदलने के लिए उपाय सुझाना,
- ट) विशेषकर परिसंकटमय व्यवसायों में बाल श्रमिकों को नए सिरे से प्रवेश को रोकने के लिए उपाय सुझाना,
- ठ) सरकार राजपत्र में अधिसूचना द्वारा आयोग को बाल श्रमिकों से संबंधित ऐसे अतिरिक्त कृत्य भी सौंप सकेगी जो अधिसूचना में विनिर्दिष्ट किए गए हों।

8. पारिस्थिति (हैसियत) और उपलब्धियां -

सरकार सम-समय पर आयोग के अध्यक्ष, उपाध्यक्ष या सदस्य को ऐसी पारिस्थिति (हैसियत) प्रदान कर सकेगी और ऐसे वेतन, भत्ते का भुगतान

तथा अन्य सुविधाएं उपलब्ध करा सकेगी जैसी कि विहित की जाए।

9. आयोग की रिक्तियों का भरा जाना या इसके गठन में फेर-बदल :

- 1) आयोग के अध्यक्ष, उपाध्यक्ष या अपने किसी सदस्य के पदत्याग या अन्यथा उत्पन्न किसी रिक्त के होने पर भी आयोग कार्य करता रहेगा।
 - 2) सरकार आयोग में हुए ऐसी रिक्तियों को किसी भी प्रक्रम पर भर सकेगी।
 - 3) यदि आयोग के बने रहने के दौरान, किसी रिक्त के भरे जाने या किसी अन्य कारण से आयोग के गठन में कोई परिवर्तन हुआ हो, तो इसका कोई प्रभाव आयोग द्वारा पहले की गई किसी कार्यवाही या कार्य पर नहीं पड़ेगा।
10. अध्यक्ष आदि लोक सेवक होंगे - आयोग के अध्यक्ष, उपाध्यक्ष और प्रत्येक सदस्य तथा इस अधिनियम के अधीन कार्य करने के लिए आयोग द्वारा नियुक्त या प्राधिकृत प्रत्येक पदाधिकारी को भारतीय दंड संहिता (115, 1860) की धारा 21 के अर्थान्तर्गत लोक सेवक समझा जाएगा।

11. आयोग के कर्मचारिवृन्द

- 1) सरकार के प्रशासी विभाग के सचिव अथवा सरकार द्वारा नाम निर्दिष्ट उप सचिव से अन्युन पंक्ति का कोई पदा. आयोग का पदेन सदस्य-सचिव होगा।
- 2) सरकार आयोग के लिए ऐसे अन्य पदाधिकारी/कर्मचारी उपलब्ध कराएगी जो आयोग के समुचित कार्य-सम्पादन के लिए अपेक्षित हो।

12. प्रतिवेदन प्रस्तुत करना :

- 1) आयोग, इस अधिनियम के अधीन सम्पादित अपने कार्यों का समेकित प्रतिवेदन, प्रतिवर्ष सरकार के पास प्रस्तुत करेगा।
- 2) आयोग, अपने विवेकानुसार समय-समय पर बाल श्रमिकों के महत्व से संबंधित किसी बात पर विशेष प्रतिवेदन सरकार के समक्ष प्रस्तुत करेगा।
- 3) उपधारा (1) के अधीन वार्षिक प्रतिवेदन या उपधारा (2) के अधीन विशेष प्रतिवेदन प्राप्त होने पर, सरकार व्याख्यात्मक ज्ञापन के साथ उसकी एक प्रति राज्य विधान मंडल के प्रत्येक सदन के समक्ष रखेगी।

बाल श्रमिक आयोग बिहार वित्तीय नियमावली तथा इस संबंध में वित्त विभाग द्वारा समय-समय पर निर्गत परिपत्रों के अनुसार आयोग के कार्यालय एवं कर्मचारियों पर होने वाला आवर्तक एवं अनावर्तक व्यय के लिए निधि प्राप्त करने के लिए प्रत्येक वित्तीय वर्ष के लिए वार्षिक बजट तैयार कर श्रम विभाग को देगा तथा श्रम विभाग अपने वार्षिक बजट में आयोग के लिए निधि का उपबंध करेगा तथा बजट प्रावधान के संदर्भ में विभाग द्वारा प्राप्त आवंटन के अनुसार आयोग अपने कार्यालय तथा कर्मचारियों पर होनेवाला खर्च पर व्यय सुनिश्चित करेगा तथा निर्धारित प्रपत्रों में लेखा का संचारण करेगा तथा अपने लेखा का अंकेक्षण प्रत्येक वर्ष वित्त विभाग (अंकेक्षण) तथा महालेखाकार, बिहार से कराने की यथोचित व्यवस्था सुनिश्चित करेगा।

13. नियमावली बनाने की शक्ति .

1. सरकार राजपत्र में अधिसूचना द्वारा इस अधिनियम के उपबंधों को कार्यान्वित करने के प्रयोजनार्थ नियमावली बना सकेगी।
2. विशिष्टतया और पूर्वगामी उपबंधों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, ऐसे नियमों में निम्नलिखित के लिए उपबंध किया जा सकेगा-
 - क) आयोग के अध्यक्ष और उपाध्यक्ष की परिस्थिति को अवधारित करने के लिए,
 - ख) आयोग के अध्यक्ष, उपाध्यक्ष और सदस्यों को देय वेतन, भत्ता और अन्य उपलब्धियों के लिए,
 - ग) ऐसे किसी अन्य बात के लिए, जिसका इस अधिनियम के उपबंधों के अनुसरण में उपबंध किया जाएगा या किया जाए और वह उपबंध सरकार की राय में इस अधिनियम के उचित कार्यान्वयन के लिए आवश्यक हो।
3. इस अधिनियम के अधीन बनाया गया प्रत्येक नियम बनाए जाने के पश्चात् यथाशक्ति शीघ्र राज्य विधान मंडल के सत्र में रहने पर उसके हरेक सदन के समक्ष कुल मिलाकर चौदह दिनों की कालावधि के लिए रखा जाएगा। यह कालावधि एक सत्र में या दो क्रमवर्ती सत्रों में समविष्ट हो सकेगी और

यदि उस सत्र में जिसमें वह ऐसे रखा गया हो अथवा ठीक पश्चात्वर्ती सत्र के अवसान के पूर्व, दोनों सदन उस नियम में कोई उपान्तर करने के लिए सहमत हो जाए अथवा दोनों सदन सहमत हो जाए कि वह नियम नहीं बनाया जाना चाहिए तो उस नियम के पहले की गई किसी बात को विधिमान्यता पर प्रतिकूल प्रभाव डाले बिना वह नियम इसके पश्चात् यथा स्थिति ऐसे उपान्तरित रूप में ही प्रभावी होगा अथवा उसका कोई प्रभाव नहीं होगा।

वित्तीय संलेख

बिहार राज्य बाल श्रमिक आयोग विधेयक, 1996 के अंतर्गत बिहार बाल-श्रमिक आयोग के गठन का प्रावधान है। आयोग के गठन से राज्य सरकार को 7,02,500/- आवर्तक तथा 25,000/- रु. अनावर्तक व्यय का अनुमान है जिसपर वित्त विभाग की सहमति प्राप्त हो गई है।

(विद्यासागर निषाद)
भार-साधक सदस्य

उद्देश्य एवं हेतु

भारत का संविधान यह निर्देश देता है कि 14 वर्ष से कम उम्र के बालकों को साक्षर बनाने का दायित्व राज्य का है। राज्य सरकार की यह स्पष्ट मान्यता है कि बाल श्रमिक तथा बालक के सर्वांगीण विकास से जुड़ी समस्याओं के ठोस निदान हेतु सरकारी एवं गैर सरकारी दोनों स्तरों से सम्मिलित प्रयास किए जाएं। बाल श्रमिक प्रथा के रोकथाम उनके कल्याण शैक्षणिक शारीरिक तथा सर्वांगीण विकास हेतु ठोस उपाय किए जाएं। उस उद्देश के लिए बाल-श्रमिक आयोग के गठन का प्रस्ताव दिया गया है, जो इस संबंध में समय-समय पर अन्वेषण, अध्ययन विश्लेषण कर राज्य सरकार को ठोस प्रतिवदेन दे, जिसका कार्यान्वयन राज्य सरकार करे। इस हेतु विधेयक में आवश्यक प्रावधान किए गए हैं, जिन्हें अधिनियमित कराना ही इस विधेयक का अभिष्ट है।

(विद्यासागर निषाद)
भार-साधक सदस्य





CAMPAIGN AGAINST CHILD LABOUR
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