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# 25 YEARS OF THE CAMPAIGN AGAINST CHILD LABOUR

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1992-2019: A journey

2019

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## 1. Background

**The context in which CACL came into being:** The 1970s and 80s were marked with advocacy and campaigns across the globe, highlighting the need to recognize rights of children as envisaged by the United Nations Declaration of the Rights of the Child (1959). In 1973, ILO Convention 138 on Minimum Age stipulated that minimum age for employment shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. 1979 was declared the International Year of the Child and it took another 10 years for the UN Convention on the Rights of the Child (1989) to set the definition of a child as a person under 18 years of age and to set out the civil, political, economic, social, health and cultural rights of children. Human Rights of children were recognized globally and the Convention was ratified by a large number of countries in record time and both governments and civil society organisations across the world started operationalizing the articles of UNCRC. Article 32 of the UNCRC prohibited employment of children (under the age of 18). By 1991, the US Congress had begun to discuss a bill to prohibit imports of goods made with the use of children's labour (later approved in 1999).

Back home in India, for the first time ever, a legislation to protect children from economic exploitation was promulgated, albeit half-heartedly. The Child Labour Prohibition and Regulation Act in 1986 (CLPRA) established 14 as the minimum age of employment for children in (a specified list of) hazardous occupation and processes and provided regulations for the employment of children under 14 in other occupations and processes. By 1992, India ratified the UNCRC, with reservation on Article 32 on child labour, arguing that since India was a poor country and poor families were at risk of starving if their children were not allowed to work, it would not be feasible for India to eliminate child labour immediately<sup>1</sup>.

By the 1980s, there were large number of NGOs, CBOs, trade unions and other social groups who were working for the welfare of child labour. There were different approaches of providing them with education and other social services while they continued to work, removing them from work situation to school situation, helping to improve the working conditions and so on. The work by these organisations was often isolated from the work done by other organisations and limited to their specific areas, villages, talukas and districts and were dispersed. At the same time, different studies and estimates on child labour in India started emerging from official and unofficial sources—Census estimated 13.6 million children working in India in 1981, while Operation Research Group put out a set of statistics stating that 44 million children were in labour. There were other estimates which varied between 44 million and 115 million.

Many organisations felt the need to join together and have common perspectives and also create larger impact towards supporting children who have been exploited economically. It is in this context that the Campaign Against Child Labour (CACL) a national network of organisations and individuals committed to complete eradication of child labour in the country was born. This report chronicles the journey of this campaign over the last 25 years. was born in the early 1990s.

Insert Box in Statistics on Child Labour from 1980s to current

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<sup>1</sup> "...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 GOI undertakes measures to progressively implement the provisions of Article 32...". UNCRC-India Second Periodic Report, 2001. (CRC/C/93/Add.5 16 July 2003). <https://www.childlineindia.org.in/CP-CR-Downloads/UNCRC%20India%20periodic%20report%202001.pdf> (accessed March 14, 2019)

## 2. Introduction: 1992-1993: Evolution of principles and positions

The network of CACL emerged as a self-association of different NGOs, and as this dossier on the journey of CACL will elucidate, the Campaign has been and remains dynamic and live in the way in which it has discussed and debated different perspectives, positions and contexts as they arose—from the initial debates and discussions on the reservation of GoI to Article 32 of the UNCRC, on the CLPRA and its various amendments until the most recent one in 2016, the bill and subsequent legislation on the right to free and compulsory education in India in 2009. With an initial membership of 40 NGOs from 12 states, the Campaign expanded to include individuals, academicians, other institutions, trade unions, women's organisations and even students' and teachers' organisations to be part of it and also to cooperate and collaborate at different levels. In the 30<sup>th</sup> year of the UN CRC, and 27<sup>th</sup> year of its ratification by India and 27<sup>th</sup> year of CACL, it has a network in 19 states with **6123** members.

The process of formation of a campaign to address child labour began in 1992, when like-minded groups including Mumbai-based YUVA, Pune-based terre des hommes Germany – India Programme (tdh) and Action for the Rights of the Child (ARC such as TDH (Germany), came together to launch a campaign for the ratification of the Convention on the Rights of the Child by the Government of India. They mobilised a group of about 40 NGOs from 12 states who were working to promote children's rights and specifically to address child labour to come together in October 1992 with a view to collectivise and broaden the perspectives for combating child labour. They agreed to work together as a “campaign”, developing common understanding and perspective and implementing the campaigns in their respective areas of operation. Under the initiative of, initial meetings were organised for brainstorming and debating on different aspects of child labour, its causes, its effects on children and society at large, the different approaches adopted so far against child labour, the legislative framework and the international conventions.

As India had not ratified ILO Convention 138 and the new UN Convention on the Rights of the Child (1989), one of the first steps decided by this group was to advocate for the ratification of UNCRC by the Government of India (GoI). Just as the group decided on this advocacy plan, the GoI, of its own accord, ratified the UNCRC on the 10<sup>th</sup> of December 1992. The ratification came with an appeal to seek exemption from Article 32 of the Convention, which prohibited employment and economic exploitation of children. The group continued to discuss and develop its position vi-a-vis the GoI reservation on Article 32 and simultaneously debated the CLPRA-1986 extensively. On the latter, the group observed that the legislation failed to cover, under its jurisdiction, child labour in the agrarian sector which constituted 85 per cent of child labour in India and that it was necessary for a nationwide campaign to raise awareness about all forms of child labour and the need to address it comprehensively. And so, the “Campaign Against Child Labour” was launched informally and awareness programmes started at different locations.

*Position on interventions:* Members of the CACL listed various factors that were responsible for child labour—failure of the education system, poverty, unemployment and underemployment, caste and gender-based discriminations, landlessness, low wages and of course the demand for cheap labour by establishments and industries were listed. After long discussions, ***it was finally agreed that child labour is caused by an interplay of multiple factors and is a result of social and economic structures that prevailed in the country.*** This then led the group to further explore the most appropriate strategy for combating or ending child labour.

There were many discussions among the founding members of the CACL on the strategies for removing children from work and whether “rehabilitation” proposed under the then legislation on child labour was the ideal to pursue or a complete ban. Different approaches of regulation, amelioration, abolition, prohibition and welfare-ism were examined. The rather polemic debate finally concluded with an understanding that as the causes were multiple and interrelated, the remedies needed to be multiple and interrelated as well. In other words, ***it was agreed that the appropriate approach should be to eradicate child labour by removing the causal factors through decentralized and diverse methods.*** A position paper by the Campaign, on Alternatives to Child Labour, expounded

that the argument in favour of regulating child labour rather than a total ban on child labour stemmed from a misguided and misinformed idea that if children were removed from work, they and their families would be subject to tremendous hardships. The paper contended that the only people who stood to lose from banning child labour were employers who benefitted from exploiting children. The position paper contended that in fact, “if there is an effective ban on the employment of children, a situation would be created whereby people would search for other alternatives rather than have their children work”. The paper went on to propose that alternatives to child labour have to be of a “preventive and corrective nature” and that the “first necessary alternative is the imposition of free and compulsory education for all children”.

This proposition went on to become a founding philosophy of the CACL and is the genesis of how the Campaign Against Child Labour became allies with the campaign on Right to Education, which formalized several years later and how at one time, the CACL and RTE campaign were set to merge. CACL believed that with the meaningful implementation of Right to Education, all children will be in schools compulsorily and therefore no child will be allowed to work.

In 25 years since the CACL adopted this position and about 10 years since the Right to Education was granted in India, while there are reports of drop in the numbers of children in labour, most significantly in factory settings where the proportion was in any case low to start with; significant proportion of children continue to work in the unorganized sector, either after school hours or by being irregular at school or, still being deprived of schools—children engaged in agriculture, children of migrants, children on the street and so on.

*Position on legislation:* In terms of legal jurisprudence, CACL’s position was that **child labour had to be prohibited for all children under the age of 18, in all sectors of employment—hazardous or non-hazardous**, in alignment with the recently ratified UNCRC and implicit agreement on the definition of children as those below the age of 18 years. All interventions on child labour—be it to provide education to children who are already in employment, or moving children from employment to schools, or to promote school enrolment and retention, or to provide health and welfare support to working children—had to be done with the ultimate objective of moving them from work, into the school system.

### 3. Key milestones in the Campaign: Conventions, democratization and children's participation

*First ever convention on child labour (1994):* The initial awareness programmes from 1992 and 1993 across the 12 states where CACL members were active, culminated in the first ever convention of child labour in Chennai in 1994. Over 1800 child labourers from about 14 states of the country gathered in Chennai through the support of NGOs and CBOs. They shared their experiences in different groups through discussions, cultural fora, role plays, posters and banners. Children travelled for 3 or more days by train, accompanied by adult colleagues from different NGOs and spent 3 days in Chennai, engaging with each other and also elaborating on their aspirations, hopes and dreams. On the last day of the convention these children were joined by another large group of working and street children from Chennai and all of them walked the streets of Chennai, making the fact of child labour visible to the onlookers and the larger society through media coverage. Support from media and other progressive institutions and organisations encouraged the children and the organisers who had rallied under the umbrella of Campaign Against Child Labour. **The initial task of CACL was being achieved—child labour was becoming visible and the society and state were being invited to take action.** Demands and delegations were put forward by the convention before the public to the media and before the governments at different levels. The Convention also infused the campaign with lot of energy for the subsequent years.

*Development of democratic organisation structure:* The subsequent years were devoted both to spreading the campaign more and more into the states and also to creating a democratic structure for the campaign. A central philosophy of the CACL has been to mobilise civil society and communities for local level actions to eradicate child labour and put children in schools. Local actions have typically included mobilizing communities, including children, for awareness campaigns carried out through rallies, mobilization of the press, investigations into specific cases or sectors, advocacy with local governments (from panchayat to state government). And the primary tool for such mobilization have been member organisations of CACL, who are usually NGOs already working in the area of children's rights and/or more broadly, human rights. CACL is a bottom up campaign, from the communities to state to central, addressing the public and policy makers, striving to create an environment for the complete eradication of child labour.

CACL organised state chapters in different states led by State Conveners and State Committees who had all the autonomy to streamline the campaign within the state, raise resources and organize programmes. The National Secretariat based at Yuva in Mumbai coordinated all these activities, supported the state groups as and when required. Simultaneously the National Secretariat also initiated an advisory committee for CACL including eminent personalities from different walks of life like BN Bhagawati, retd. Chief Justice of India; N Ram, Editor Hindu; Comrade AB Bardhan, trade unionist, Jaya Jaitley, Nandana Reddy, Justice Krishna Iyer, and others.

The initial structure was an Executive Committee including the National Convening organisation, some of the founding members and the state conveners. At the state level it was the state conveners and 4-5 zonal conveners within the state which formed the State Committee. The General Body of the campaign was a forum which included the state committees and the executive committee. Both at the national level and the state level the previous conveners were also inducted into these committees. The Advisory Committee always remained in an advisory role and the National Conveners and the State Conveners were rotated through consensus or election every 3-5 years. The second National Convener was elected in 1998 and National Secretariat moved from YUVA in Mumbai to RLHP in Mysuru. Since then, the National Secretariat and Convenorship has moved **xx times** through the states of **a,b and c**.

These structures continue to exist and the General Body was termed National Coordination Committee which met every year or once in two years. All the major decisions had to be taken or ratified by this committee

INSERT Organisational Structure Chart

including the political positions.

*Second national convention and first ever public hearing (1997):* 1997 was a significant year for CACL as it organized the first ever public hearing on child labour in Delhi along with its second national convention in Delhi. Once again child labourers and a significant section of children who had moved from employment situation to school situation travelled from states in the south, west and east to Delhi for a 3-day convention and public hearing. Both, the children and the accompanying adults, found a lot of solidarity and positive energy in meeting, sharing and discussing on various issues. An eminent jury led by late Dr Yashpal gave clear verdicts in line with the rights of these children for education, not just education but their right to joyful learning. The interviews with children and their statements as well as verdict of the jury were published in national media and the coverage over digital and print media once again invited the whole country to act against child labour and in favor of education for all. By 1998, CACL in response to the need for strong advocacy at national level, with the centre, an Advocacy Unit was set up in the office of Centre for Education and Communication, New Delhi.

Girl child labour was adopted by CACL members nationally as an important concern during this period.. It was also noticed that with the growing awareness against child labour and for education more boys were going to school while more and more girls went out to work or stayed home. Hence it was important to highlight this. Another aspect was as the girl child labour were more in the domestic sector they were also not visible. This too necessitated the need to focus on their situation.

*Social Audit of 15 Years of Interventions Against Child Labour (2001):* CACL together with several trade unions organised a Collaborative Social Audit of 15 Years of Interventions Against Child Labour, in 2001 in New Delhi. The social audit examined objectives, strategies, approaches, effectiveness and shortcomings of interventions made by different actors engaged in addressing child labour—NGOs, International Organisations, multilateral and bilateral agencies, trade unions, employers' organisations and the Government—since the enactment of the CLPRA in 1986. In addition to representatives from organisations that organised the audit (CACL and various trade unions), representatives of all the other audited organisations—including from Department for International Development, Government of UK (DFID), International Labour Organisation (ILO), UNICEF, UNDP, former Deputy Chairperson of the Planning Commission, Gol, and prominent academics—were present at this event and participated in auditing the various interventions. Eight resolutions were adopted by all participants, representing Indian civil society, Gol, multilateral and bilateral agencies that included demand from Gol to take immediate steps to review the 93<sup>rd</sup> Amendment to the Constitution that excludes children in the age group 0-6 and 14-18 from the right to education; **(need to include the other key resolutions)**. The report of the social audit was submitted as a status report to the International Labour Conference, 2002, that was held in Geneva.

*Third national convention and public hearing—focus, the girl child (2003)*

Girls were prioritised by the CACL because in addition to being exploited

Declaration by girls participating in Nayi Subah (New Dawn)-The National Event on Girl Child Labour.

5-7 March 2003 at Mysore, Karnataka

- Child labour below 18 years should be totally eliminated
- My father should stop drinking and the government should give him full time job”
- All adults should be given jobs and good wages
- Schools should be in the villages
- For children above 14 years, training facilities should be available within the villages
- Education for girls upto 12th class should be made free
- We want nutrition and health care facilities to be provided in the school
- We are against child marriages
- We are against scan centers that identify male and female child and kill the female foetus
- We want free and quality education
- We demand severest punishments on those who employ children
- We want freedom, we want to be children

economically, they faced more physical and even sexual violence. Evidence from interventions by members in the communities indicated that more boys than girls were leaving work and going to school as a result of growing awareness on the importance of education and negative consequences of child labour. Girls tended to stay out of school, work outside or within the homes and were disproportionately represented among domestic child labour, making them even more invisible. Accordingly, the third national convention and public hearing on child labour, focused on girls.

More than 1500 girls from 18 states who were either working or had just moved from work situation to education participated traveled to Mysore in 2003 to participate in this convention. The convention was inaugurated by eminent social activist and actor, Nandita Das, who passionately spoke about the importance of educating our girls. The girls who had come from as far as Firozabad in UP, Rajasthan, Orissa, Bihar, Madhya Pradesh, Gujarat, Maharashtra and Karnataka had deposed before the jury about their situations both at home and at work. Situations of work as domestic help within the families, different eatery setups, agriculture, incense stick making, beedi rolling, and brick kilns and construction sites were vividly reported. The public hearing had a jury of eminent persons such as (Late) LC Jain, Advocate Indra Jaisingh and others. The verdict issued by the jury which became the headlines in the Bengaluru and Mysore newspapers was titled "We are guilty". The Jury argued that we, the society and the government, are guilty of discriminating, exploiting and abusing our young girls through putting them to hard labour and keeping them away from education, leisure and play.

Two years later, in 2005, facilitated by the CACL, thousands of Girl Child Labourers Marched to the Parliament and a representative delegation of 25 girls from different parts of India met a number of political leaders to voice out their problems. A memorandum called *Mujhe Mera Bachpan Lautado*, to protect them from abuses, exploitations and to them give back their childhood by ensuring quality education, health and overall development of all children was presented to these leaders, including to the Prime Minister's Office. Some political leaders responded to the delegation with specific commitments: Mr. Somnath Chatterjee, Lok Sabha Speaker acknowledged that child labour is a national shame. Mr. Sivraj Patil, Home Minister expressed his concern and assured the children that he would implement different schemes and programmes to cover more and more children.



#### *Fourth national convention and public hearing on child labour- by the children, of the children, for the children (2007):*

Children's participation in the campaign has been a founding principle of the campaign, evident from the very first national convention followed by public rally in Chennai in 1994. Beyond national events, at the local levels at the villages, block, district and state levels, CACL member organisations actively engaged children in the local campaigns. In many areas, children themselves started campaigning against child labour by actively joining different programmes and also by persuading their own peers to join school together with them rather than continuing to work. There were also many instances where children convinced parents of their peers to send them to school rather than keeping them at home or putting them to work on the farms or to look after livestock.

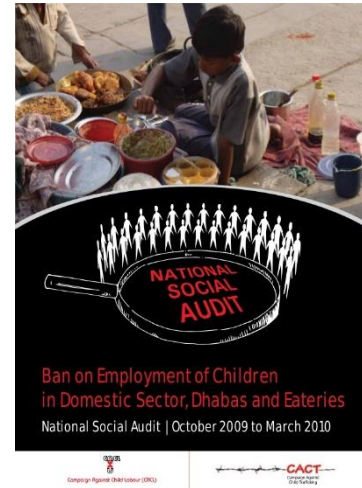
Children were engaged to claim their rights through various group activities wherein children went through a process of understanding the causes of child labour and the possible remedies. There were also various cultural items like songs, skits, street plays and audio-visual support materials that were developed and used by different member organisations to promote children's participation.

These interventions at the local levels, eventually crystalized in the form of a national convention that posed children, rather than adults as the chief advocates and jury. Called "*hum bacche sath sath bal majduri ke khila*" (we children together against child labour), this convention was organized in Bhubaneswar in 2007 by PECUC that was the then National Secretariat of the CACL. Public hearing was heard by jury comprising 5-6 young girls and boys who were themselves erstwhile child labourers and had moved into full time schooling. They listened to the depositions from the other children and



pronounced a verdict demanding that all children must go to school and not be employed in any sector. All children who participated, and particularly those that deposed and those that sat in the jury has been facilitated by a team of experts who were trained in facilitating children's participation. The convention and the perspectives of children received significant attention from the media and the government functionaries in Bhubaneswar.

*National public hearing on the ban on employment of children in domestic sector and dhabas/ hotels/ eateries (2009):* In 2009, three years after the government notification prohibiting employment of children in domestic work and the hotel industry, CACL together with the Campaign Against Child Trafficking (CACT) undertook a national audit of the implementation of notification. In 2010, the audit concluded with a public hearing on child labour, this time co-organised by CACL with CACT—**national public hearing on the ban on employment of children in domestic sector and dhabas/hotels/eateries**. Child labourers and CACL member civil society organisations from 12 states participated at this event where boys and girls, engaged in the hotel and domestic work sectors respectively, made depositions that were heard by an eminent jury.<sup>2</sup> Findings of the audit were shared with children and adults and select children. The jury concluded that “enforcement of the existing law has been tardy...there are about 50,000 child domestic workers in Delhi (and) only 23 of them are known to have been rescued”.<sup>3</sup>



#### *Children's Alternative Reports on the UNCRC (1998-2013):*

The UN CRC has always been the guiding spirit of the Campaign Against Child Labour. Getting the provisions within this convention into the national legislations and practice was attempted through various means such as campaigns, delegations and interactions with law makers as well as through making representations to the Committee of the UNCRC by way of alternate reports (alternate to the official periodic reports that governments are required to submit to the Committee). CACL also utilized this opportunity.

In 1998, the *first Alternative Report on the Status of Child Labour in India*, was submitted by CACL to the Committee of the UN CRC, 22<sup>nd</sup> Session, Sep-October 1999<sup>4</sup>. In this alternate report, the CACL contested the estimates of child labour in India provided by the Government of India's first report to the UN CRC. While the GOI contended that there were 20 million child labourers in India, CACL contended that GOI figures excluded employment of children in the unorganised sector of the economy such as domestic work, agricultural work and so on. Based on the number of non-school going children and families living in destitution, CACL estimated that there were between 70 to 80 million child labourers in India. The CACL also contested the GOI reservation on Article 32 of the UNCRC. CACL also highlighted limitations of the 1986 legislation on child labour (CLPRA), noting that between 1986 and mid 1993 throughout India, there were only 3,488 prosecutions under the Act with only 1,426 convictions and that none of those convicted had served a jail sentence for their crimes. In the alternate report, CACL called for amendment of the CLPRA to prohibit employment of children

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<sup>2</sup> Jury members included: Dr. Syeda Hameed, Member, Planning Commission of India; Mr. R.K. Raghavan, Senior IPS Officer and Former Director, Central Bureau of Investigation; Mr. Arvind Kejriwal, RTI Activist and Magsaysay Award Winner (now Chief Minister of Delhi); Ms. Vimla Ramchandran, Education Specialist; Advocate Ashok Agarwal, Senior Advocate, Supreme Court of India

<sup>3</sup> CACL and CACT (2010): Report of the National Social Audit on the Ban on Employment of Children in Domestic Children in Domestic Sector, Dhabas and Eateries —October 2009 to March 2010.

<http://haqrc.org/wp-content/uploads/2016/07/ban-on-employment-of-children-in-domestic-sector-dhabas-and-eateries-national-social-audit-october-2009-to-march-2010.pdf>

<sup>4</sup> CACL. 1998. An Alternative Report on the Status of Child Labour in India.(Downloaded from: <https://resourcecentre.savethechildren.net/sites/default/files/documents/2182.pdf>)

under 14 in all sectors and for adequate protection and rights for children in the age group 15-18 and called for GOI to amend the constitution to guarantee free and compulsory education for all children up to the age of 14 years.

In the year 2003 CACL submitted a *Second Alternative Report on the UN CRC*, which focussed on views of child labourers and in 2009, a report by child labourers, *Children's Report on the Status of UNCRC in 10 states in India* was submitted to the Committee of the UN CRC.

In 2008, CACL along with the Campaign Against Child Trafficking (CACT) began a process of engaging children in assessing the situation of children in the country, including the situation of child labour. A series of workshops were conducted with children in 10 states, supported by CACL state chapters in the respective states. Children were facilitated in conducting field visits, collecting and compiling data, analysing and writing their report. By 2012, a national level workshop was conducted for compiling all state reports into a national report and this national report then went on to be submitted as *Children's Alternative Report on the UNCRC, 2012* (see box). In 2013, this report was updated in light of the information that the report would be considered by the UNCRC in their **(which session)**. By this time, the Bill to amend the CLPRA had been tabled in the Parliament and hence the updated version of the report included children's feedback on more recent developments in the country, including the proposed amendment.

#### *Fact-finding missions and litigations*

Another significant strategy adopted by the CACL members was to undertake fact finding missions to investigate specific cases of violations of children engaged in labour. These missions and PILs served to generate evidence to advocate with the government for implementation of the existing law and for amendment of the legislation for including more sectors as hazardous. An external evaluation of the CACL in 2005 noted that 30 percent of the total fact-finding cases had seen some kind of legal conclusion. In 15 percent of the cases, offenders had been punished and

#### **Children's Alternative Report to the UNCRC, India, 2012 (and updated in 2013)**

We feel that all work is dangerous for children and prevents them from growing and developing properly, and should be totally banned, but the government is not willing to do this. We found many children still working in hotels and in domestic labour, in spite of the ban. In our surveys we also saw children in mines, brick kilns, carpet weaving, bakeries, garages, salt pans, diamond cutting, and in fields. All of them are out of school and in danger for their health and safety. Another thing we saw was that even if a child is rescued in a raid by the labour department, and he or she happens to be over 14 years, but below 18, then he or she is sent back to the employer, not to the parents.

Update in 2013: (we demand that the child labour) law should ban child labour up to the age of 18 years. We also want to emphasise our earlier demand for better implementation of government schemes for the poor and to control migration, and better wages for our parents so that children from poor families can study and develop.

victims compensated.

#### Examples of Fact-Finding Missions

CACL in Karnataka along with other child work networks organized a fact-finding mission on children working in mining areas of Bellary. It was estimated that around 200,000 children were working in the mines. The fact-finding report was submitted to concerned departments of the State and Central governments. Reports were also sent to various human rights organizations within the country and all over the world. The Press was pulled into the issue for their study and coverage. Protest rally was organized at Hospet and Bangalore. Consequently, NHRC has taken up the issue as suo motto and issued notice to State Government. State Level officials called for a discussion with CACL-K members and constituted a state level committee.

CACL in Karnataka filed a Public Interest Litigation (PIL) on the employment of child labour in the silk industry. As a result, the High court of Karnataka directed the state government to prohibit employment of children below 14 years in the silk industry and for sanctions against those that employed children.

CACL in Tamil Nadu conducted a fact-finding mission in the case of Kadaliyur in Tuticorin district where 3 children were killed in a fire accident in a match factory. The Fact-Finding Report was released in the newspapers and submitted to the State government, which appointed an enquiry committee on the issue.

## 4. Debates on international interventions and national legislations

The decade of 1995-2005 was one of intense campaigns and debates for the CACL. The main issues around which discussions revolved ranged from international trade intervention for elimination of child labour, the approach to education for all and particularly free compulsory education for all children under 18 years the exploitation of girl child and the approach to legal reform on child labour.

*International trade interventions:* in the 1990s, child labour had already become a popular international topic for discussion and action. Consumer awareness and actions in Europe and other continents demanded prohibition of sale of products made with “the sweat and toil” of children—by exploiting children. People were looking for a guarantee that exported goods from countries like India, carpets, textiles, handicrafts, tea/coffee and so on are “free of child labour”. Labour standards became an international concern and there were proposals that conditions like free of child labour be included within the trade regulations. Such demands from the civil society were echoed in government actions and were manifested, for instance, in the garb of “social clauses” introduced by the World Trade Organisation (WTO). At the very time that the CACL was being formed, the United States Congress was considering a Bill to prohibit importation of products that have been made by child labour (the “Tom Harkins Bill” as it was called was passed as the Child Labour Deterrence Act in 1999). The Bill was passionately discussed and debated in India, and the opinion was divided. Some organisations and networks (such as the South Asian Coalition against Child Servitude and Bachpan Bachao Andolan) who were also campaigning against child labour, found the Bill to be a positive development and accepted the same as a measure towards elimination of child labour. Debates within CACL however, concluded differently, arguing that such restrictions by importing countries would negatively affect trade in the developing countries, thereby harming the economy which in turn will actually result in hardships for the poor in general and might even increase practices like child labour. This became a major difference of opinion between the different networks and while deferring on this particular issue, the different networks and CACL continued to cooperate on other issues.

*ILO Convention on Worst Forms of Child Labour:* The ILO Convention 182 on the Worst Forms of Child Labour, that called for abolishing of child labour in the most intolerable sectors came into force in 1999. The CACL members debated and discussed this and rejected the Convention on grounds similar to that related to their objection on the Indian legislation (CLPRA). The Campaign members agreed that the Convention 138 of ILO (1973) which had fixed a minimum age for entry into labour was more appropriate for ending child labour in all sectors rather than focusing only on a few sectors. Consequently, the CACL advocated for the ratification of convention 138 but not 182.

*Right to education:* At its inception in the early 90s, CACL had already adopted a rights-based approach to education as a primary intervention for elimination of child labour. Together with other networks and civil society organisations, CACL actively campaigned for making education a fundamental right until the age of 18 years through constitutional amendment. In 2004, CACL lobbied with parliamentarians for changes in the (then) proposed 93<sup>rd</sup> (86<sup>th</sup>?) Amendment, arguing to make education a fundamental right for all children under the age of 18 and not just for children in the age group 6-14. The Bill as it was drafted then, was found in violation of the very intentions of the Constitution and diluted the Unnikrishnan judgement, by completely ignoring 0-6 age group (0-6 age group included a total of 16 crore children out of which 7 crores were female). When the amendment (86<sup>th</sup> Amendment, 2002) finally guaranteed education only for children between 6 and 14 years it was seen as a big setback and CACL members debated whether they should collaborate with the government or contest the move. After long debates it was agreed that while pushing for expanding the amendment to all children it was important to continue collaborations and work towards operationalizing the Amendment and subsequently the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) which guaranteed the right of all children between 6 to 14 to free and compulsory education.

CACL members further deliberated on the approach to RTE—there was a section of members who argued in favour of the common school education system guaranteeing similar education for all children, irrespective of their economic status, through neighbourhood schools; whereas others found

this utopian and impractical. This debate still continues in the CACL especially in the context of expanding privatization of education in the country and accompanying closing down of government schools in the country.

*Child Labour Prohibition and Regulation Act:* About 6 years before the CACL was formed, the GOI had passed a legislation on child labour—the Child Labour Prohibition and Regulation Act, 1986 (CLPRA). This legislation, which was passed without wider consultation with civil society organisations, prohibited the employment of children under the age of 14 in select 13 occupations and processes considered “hazardous”, while regulating hours and conditions of work for children under 14 in the remaining sectors. Most notably, the sector of agriculture that has employed the largest proportion of Indian labour, both adult and child, fell under the list of regulated sectors. An important objective for CACL after the ratification of the UNCRC was to advocate for amendment to that legislation, demanding that employment of children be prohibited in all sectors for all children under the age of 18.

While CACL has continued to maintain its position that child labour had to be prohibited for all children under the age of 18, in all sectors of employment—hazardous or non-hazardous; all amendments to the legislation have continued to evade the goal of complete prohibition. Members of the CACL discussed that while they will continue to advocate for prohibition of all forms of child labour for all children under the age of 18, they may be more successful in advocating for expansion of the list by proposing specific industries based on evidence, since the GOI seems more amenable to such an approach. After a protracted discussion, members of CACL have concluded that a legislation calling for complete prohibition would be very difficult to be pursued and decided that they would demand instead for inclusion of more and more sectors in the list of hazardous industries. This strategy has proved to be effective and over two decades, different sectors of employment such as textile work, **ginning?**, hotels, rag picking and many others were eventually included under the hazardous sectors and the list of hazardous sectors expanded from 11 in 1986 to 76 by 2006.

With the amendment to the Constitution of the Republic of India to make education a Fundamental Right (93rd amendment), CACL included in its demands, the alignment of the CLPRA with this constitutional amendment—how can all children be in schools if child labour is permitted in any sector?

In a decade since the last set of expansions in the list of hazardous sectors, the CLPRA was amended again in 2016. While banning all forms of work by children below the age of 14, made an exception for children involved in “non-hazardous” home-based work (outside of school hours) and in the audio-visual entertainment industry. The Act allows children in the age group of 14-18 to work after school hours

### **Strategy for expanding list of hazardous sectors under the CLPRA**

In 1999, based on a complaint received by the relative of an orphaned child from Karnataka, CACL conducted an investigation which revealed that the 10-year-old girl was placed by her shelter home, as a domestic worker in the home of a state minister. CACL mobilized the local authorities to rescue the girl and in October 1999 filed a Public Interest Litigation in collaboration with the People’s Union on Civil Liberties-Karnataka.

The PIL demanded an impartial investigation and that the state government issue a notification to all its staff prohibiting the employment of children under 14 as domestic servants. A number of fact-finding missions for several cases of abuse of children in domestic work and hotel industry were carried out, including a study on domestic child labour in Delhi<sup>1</sup> and petitions filed with different state governments for action.

Between 2001 and 2002, year-long campaigns were conducted in all states, and 3 regional consultations on child labour in the hotel industry and domestic work were held. In July 2002, CACL organized a **National Consultation on Child Labour in the Hotel and Domestic Sector** where its members and a number of other civil society organisations drafted a memorandum which was submitted to the Ministry of Labour and Department of Women and Child Development, Government of India demanding amendments in the Child Labour (Regulation and Prohibition) Act, 1986 (CLPRA) to include Hotel Industry and Domestic Work as hazardous sectors and prohibit employment of children in these sectors.

By 2006, GOI notified that any one found employing children as domestic helps or in *dhabas* and eateries is liable to prosecution as per the notification banning employment of children under 14 as domestic help and in hospitality sector, which came into effect on 10th October 2006<sup>1</sup>. Six months after this notification, a Ministry of Labour Press Release dated 09.05.07 reported 2,229 violations of the notification. 38,818 inspections were carried out by some

and in family enterprises/occupation, except in those occupations and processes listed as hazardous in the Act. CACL rejected all provisions of the new legislation (except the provision for stricter punishment for employers) on the grounds that it is in contravention of the Constitution of India, Articles 14, 15, 21 A and 23. The new legislation was found discriminatory towards marginalized children by excluding them from the protection net since they form the bulk of children who with family and family enterprises (art. 14). CACL found the Act reinforcing the caste system by allowing children to work in “family occupations” and “family enterprises” (Art. 15). The provisions were seen as damaging children’s prospects at getting a good quality education by allowing children to work outside of school hours affecting retention and increasing their risk of dropping-out (Art. 23). Finally, the Act was seen as creating loopholes for prohibition of human trafficking by allowing children to work in “family enterprises” that is the most common camouflage adopted by traffickers posing as relatives.

**Position of CACL on the current CLPRA Amendment Act, 2016**

"The Government of India should prepare a road map for blanket ban on child labour up to 18 years as per the National Policy for Children, 2013.

Remove the proviso in Section 3 of the CLPRA Amendment Bill 2012 which legalises use of child labour in family enterprises.

Reinstate the original list of hazardous occupations (18 occupations and 65 processes) in Schedule and update the list with occupations and processes, which are hazardous, based on an assessment of the newly emerging occupations on account of urbanisation and technological changes.

Remove the punishment clause for parents/guardians of child labourers; strengthen social security measures for them.

Constitute Child Labour Rehabilitation Fund

**Strategy for awareness on hazardous nature of specific sectors**

A key strategy adopted by CACL members has been to conduct awareness campaigns on specific sectors. For instance, CACL Odisha has campaigned at different times on highlighting the situation of employment of children in different sectors: ‘children in mining’, ‘children in fishing & prawn cultivation’, ‘children in agriculture & forestry’ and ‘migrated and bonded children’. CACL Tamil Nadu for instance has campaigned on child labour in the Fireworks Industry in Sivakasi (in 2002), Silk industry in Kanchipuram (2003), Silver Works in Salem (2004), and Brick kiln industry in Kanyakumari (2005).

## 5. Present and Future: Regrouping and moving forward

The period of 2009 to 2010, just after the Right to Education Act was promulgated, was spent in intense brainstorming and debates within CACL in different states and also nationally. The campaign had advocated hard for almost two decades for the right to education as a pivotal tool for eradication of child labour in the country. Now that this had been achieved—albeit not entirely, since children in the age group 0-6 and 15-18 were still left without a guarantee to education—the Campaign needed

to reflect on its next steps. At this time, the campaign was already active in about 20 states, particularly in the south, east and west. In the north, the CACL seemed to have lost momentum, except for the Advocacy Unit in Delhi that was engaged with parliamentarians, media together with a small Delhi state, the campaign though active, did not have momentum in the states of UP, Bihar, Madhya Pradesh and Rajasthan. On the whole there was certain fatigue that had cracked into the campaign and this reflected in different discussions.

A section of CACL members mused over the possibilities of CACL merging with the Right to Education forum and entirely devoting the energy to both the implementation and the expansion of the free compulsory education legislations. However, such an approach was not acceptable to the majority of the members and CACL remained an independent entity. In some states it was already quite an established movement in other states it remained dormant and some states leadership and conflict issues within the leadership kept the campaign divided and ineffective. The National Secretariat had in the meanwhile moved to SPAN in Kolkata but national coordination had slowed down.

The Campaign was infused with fresh energy in 2016 after Gol amended the CLPRA with the intention of prohibiting employment of children in all sectors until the age of 14 years, so as to align it with the RTE Act of 2009. However, the amendment was found to be a surreptitious attempt at continuing the bifurcated approach to child labour—while prohibiting child labour in all sectors until the age of 14, the amendment exempted sectors like family based / owned sectors such as traditional art and craft as well as advertising, music and art industries and so on. Through this exemption a significant section of child labour was in effect “legalized”. CACL members were once again mobilised into action to discuss and debate the amendment and to decide on their future course of action.

The National Secretariat now hosted by HOPE in Puducherry has been active at the national level, engaging with parliamentarians, political party leaders and other national fora on child labour. CACL also partnered with tdh Germany on the Time to Talk project that engaged with children to get their perspectives on child labour including the legislation, document the same and place those before the international labour conference of ILO which was to be held in Argentina last year. This too brought together children and activists from different states. This further opened up the possibilities of reviving some of the CACL state chapters in Uttar Pradesh, Rajasthan, Delhi, Jharkhand and West Bengal.

At the end of 25 years of the CACL, the campaign seems to be looking ahead and preparing to launch itself for a more active participation and engagement against child labour. A joint campaign has been launched by CACL together with the RTE Forum and ECCD, around common demands for all children in the age group 0-18 years, for their rights to health, education and protection.

As the Campaign looks back, there has been significant change in the situation of child labour over the last three decades. The numbers of children engaged in labour have certainly fallen, both official and unofficial statistics point in this direction. Very young children of 8-9 years onwards are not commonly found to be employed anymore like they were in the 80s and 90s. And after the enactment of the Right to Education Act, although a large proportion of young children do get enrolled in schools at the right age of enrolment, drop-out rates are still high, including at the elementary levels. Hotels, shops and establishments in many cities display boards declaring that they do not employ children. Despite the progress and increased awareness on the consequences of employing children and sending children to work, the practice is far from eliminated.

As the CACL prepares to take on the challenge of addressing child labour in the current context, it will need to focus on identifying its core focus, deepening its democratic processes—going deeper into the grassroots while staying engaged at the national level, sustaining coherence and continued agreements on positions, specifically related to the amended CLPRA, address the changing context of child labour and financing the core activities of the campaign.

(INSERT a closing statement from the campaign on what its next steps would be like)

## Annex 1: Aims and Objectives of CACL (Could be the back page or inside page of front page?)

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

Objectives:

- 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.
- Popularizing the UN Convention and various Conventions of ILO pertaining to child labour.

### Strategies

Adopting a two pronged advocacy strategy, which on the one hand builds up public opinion against child labour, using both conventional and non-conventional media, and on the other hand persuades the government to enforce the existing laws and to enact a comprehensive and progressive legislation to ensure the rights of the children, CACL has been taking initiative to involve a large number of social action groups, NGOs, government agencies, trade unions and international organisations. The campaign believes in networking and alliance building, and intervenes in specific cases of violation of child rights.

- Elimination of child labour through appropriate legislative measures.
- Realisation of the Constitutional guarantee of providing free and compulsory elementary 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.

The network views every child out of school as a potential child labourers. It therefore seeks to implement policy changes that will lead to a complete elimination of child labour. This requires creating awareness in different sections including child workers and their families, policy makers, media, the judiciary and citizens in general through various programmes. A basic strategy employed for this purpose has been a simultaneous campaign for free and compulsory quality education of all children in the country, and for legislation to effectively eradicate all forms of child labour.<sup>5</sup>

In order to achieve its objectives, the network works at the field level through its various member organizations. While the different member organizations vary in focus, structure and internal organization and nature of programmes conducted, by and large, they subscribe to the common vision of CACL. They participate in its programs and carry forward the message of CACL in their own focus areas. CACL is not registered as an independent entity. Over the years, through a learning process, the network has evolved its own management structure.

### CACL's position on child labour

A 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, social, emotional and spiritual development, denying them their basic rights to education, health and development”. CACL is against all manifestations of

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<sup>5</sup> From evaluation report 2005

children working in any sector, occupation or process, including the formal and non-formal, organized and unorganized, within or outside the family.

CACL believes that any child out of school is a child labourers or potential child labour. It hopes that the enforcement of free, compulsory, quality and equitable education for all children up to 18 years of age is a prerequisite for the eradication of child labour. The campaign aims at the immediate eradication of child labour.

The CACL believes in working in collaboration with Government initiatives against child labour. However, it reserves the rights to be critical of Government initiatives when necessary. The CACL endorses solidarity support for such campaigns from international organisations and other concerned groups and individuals outside the country. However, it does not approve of any legislative restriction involving trade and export of goods from India, as a deterrent to child labour. It opposes all forms of boycott calls of goods produced by children. It actively rejects initiatives like that of Tom Harkins Bill introduced in the Senate of USA. CACL also does not favour moves like proposed social clauses in WTO. It endorses the role of ILO, demands implementation of ILO convention on labour standards by all countries<sup>6</sup>.

**Written by Paro Chaujar and C J George**

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**“25 years of the Campaign Against Child Labour” – draft 1**

Supported by terre des hommes Germany

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<sup>6</sup> CACL 1995: CHILD LABOUR: THE INADEQUATE RESPONSES AND PREVALENT MYTHS