

## **Report of Consultation on Child Labour**

### **Campaign against child labour**

**30<sup>th</sup> May 2018, Delhi**

Campaign against Child Labour is a national campaign and for last 25 years it has been actively involved in advocating for the rights of children and working towards all kind of child labours. It strongly put forward its position that no child below 18 years of age should work in any field. Time – to time it organizes meetings and consultations to create awareness and build alliances with other stakeholders in different regions of the country.

In continuation, the member of Delhi state committee organized a state consultation on child labour on 30<sup>th</sup> May 2018 at Press Club of India, New Delhi

### **Overview of Status of Child Labour in Delhi and NCR**

*Bharti Ali,*

In this session Bharti shared the status of child labour in Delhi and NCR. Referring to the data from govt sources like Census 2011 and NSSO 66<sup>th</sup> Round he shared that there are 259.6 Million Children (5 to 14 Yrs) who are working either as full time child labourers or marginal child laborers. She said that if we consider these figures (which are always debatable and shows low figures than the actual ones), then also the situation is not good.

#### **The challenges are:-**

- 11% or 27.8 million children are still out of school;
- Literacy and schooling is still lower among girls than among boys and lower in rural areas than in urban areas;
- Age-group of 5-9 years- significant lower literacy & lower schooling rates, particularly for girl children (immediate attention required).
- Age-group of 10-14 years- a large proportion of children are literate but currently not attending schools (indication of large dropped-out children and engaged in work).

### **Child Labour( Prohibition and Regulation) Act Amendment 2016 and CACL's Position on it**

*Mr. P. Joseph Victor Raj, National Convener, CACL*

### **Child Labour (Prohibition and Regulation) Amendment Act (CLPRAA), 2016**

In July 2016, the Parliament passed the Child Labour (Prohibition and Regulation) Amendment Bill, 2016. Rajya Sabha passed it on 19th July and Lok Sabha on 26th July 2016, which got the President's assent on 29<sup>th</sup> July 2016. Government of India published it in the Gazette as the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (CLPRAA, 2016) and the Act came into force on 01 September 2016. The CLPRAA, 2016 amends the Child Labour (Prohibition and Regulation) Act, 1986, which

prohibited employment of children below 14 years in 83 hazardous occupations and processes, and apparently bans employment of children below 14 in *all occupations and enterprises*.

### CACL's position

CACL considers that these steps are retrograde and will encourage and legalise child labour instead of its purported objective of prohibition of child labour from all occupations and processes. It legalises family and family-based occupations, removes the restrictions on hours of work in such occupations and excludes such occupations from the original schedule of hazardous occupations / processes.

The 1986 Act had in the Schedules several occupations and processes that would have been managed by families or as family enterprises. Among such establishments where child labour was prohibited included agarbati making, gem cutting, fabrication, foundry, automobile workshops and repairs, slate pencil making, lock making, soldering, electronics, polishing, potteries, welding, zari making, processing, dhabas, plastic making, handlooms, etc.. The Amendment, despite its stated objective, in effect allows child labour in all such and more establishments rationalising that these are run by families.

The CLPRAA, 2016 reduces the list of hazardous occupations in the schedule to mines, explosives and those in the schedule of the Factory Act. Many children employed in various hazardous occupations will therefore go un-recognised as child labourers. Moreover, many of the family based enterprises are hazardous, but will escape official scrutiny.

The CLPRAA, 2016 allows child labour in such establishments under the presumption that children can work and study. This presumption is a grand generalisation of exceptions and legalising those generalisations. The right to education is a fundamental right under Article 21A of the Constitution through the 86th Constitutional Amendment of 2002. The Section 3 of the amended Act does not even specify the hours of work. It simply states that children can help after school hours or during vacations. The amendment contradicts the UN Convention on the Rights of the Child as it neglects to define the number of hours children can work.

Allowing children to work will affect the retention rate of children in schools and increase drop outs of children from the marginalized sections. It will also prevent children from getting time for doing home work and for play and leisure which too are rights recognized by UNCRC, ratified by India. The Act provides loopholes to put children to work even during school hours as there is no way that it can be monitored.

The amendment has expanded the definition of family to include not only parents and siblings but also the siblings of either parent, in effect, expanding the possible enterprises where children can work and increasing the chances of children being exploited. Given the context of weakening labour inspection machinery, it may be difficult to determine whether an enterprise is owned by a family or some person has employed the whole family to run the enterprise.

The amendment extends the freedom to engage children as artists and in audio-visual industry including advertisement, at a time when there are no ground rules evolved to protect children engaged in such

activities. CACL considers this a serious lapse in the context of increasing commercialisation of audio-visual industry.

In India, generally, traditional family occupations are caste-based occupations and enterprises. Legally allowing children to be engaged in family or family-based occupations, will entrench caste based social structure and caste based occupations in the country. It will bind children especially the poor children belonging to low caste to traditional caste-based occupations for generations or such children will be denied the freedom of choice in the pursuance education, as well as in the acquisition of knowledge and in the diversification of skills.

More than half of India's child workers labour in agriculture and over a quarter in manufacturing—embroidering clothes, weaving carpets, making match sticks or brick kilns, restaurants, in domestic work. In India, overwhelmingly, child labourers are those from vulnerable Dalit, Adivasi and Muslim backgrounds. CACL is extremely concerned that they will be the worst affected by the CLPRAA, 2016. Children from the vulnerable communities will be forced work in many employments, in hazardous conditions, for long hours abdicating their right to schooling and education. Further, it will extoll the virtue of caste-based occupations, deny the freedom of choice to those of those who engaged in such occupations and indirectly communicate that education is the privilege of a chosen few. The employment of girl children, already invisible will become more insidious and exploitative.

CACL acknowledges that the 2016 Act makes child labour a *cognizable offence*. Employing children below 14 years will attract a jail term between 6 months to two years (earlier 3 months to 1 year) or a penalty between Rs.20,000 to Rs.50,000 or both for the first time. Repeat offenders will attract imprisonment between 1 year to 3 years (6 months to 2 years). In case, the offender is a parent, it provides a relaxed penal provision and proposes a fine of Rs.10,000 for repeat offence committed by parent.

CACL feels that such steps do not have much meaning after legalising child labour in family and family-based occupations, reduction in the instances of prosecutions against perpetrators of child labour and the policy induced lethargy in the labour administration machinery.

Campaign Against Child Labour (CACL) proposes **Child Labour System (Abolition, Prevention and Rehabilitation) Bill, 2017** for complete eradication of child labour up to 18 years of age in line with UNCRC and National Policy for Children, 2013. This will enable us to attain the Sustainable Development Targets 4.1 (By 2030, ensure that all girls and boys complete free, equitable and quality primary and **secondary education** leading to relevant and effective learning outcomes) and 8.7 (Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 **end child labour in all its forms**)

### **Alternate Bill on Child Labour**

*Advocate Ms. Selvi*

### **The Child Labour System (Abolition, Prevention and Rehabilitation) Bill 2017**

While introducing the bill, Selvi said that three things were kept in mind while drafting the bill were participation, transparency and accountability. The bill emphasized the definition of 'child' as anyone below 18yrs and CACL underlines it again since it has been ratified at UN.

The bill proposes to abolish child labour system in all its forms and ensure physical, mental, spiritual, moral and social development of every child up to the age of 18 years and also to provide for the right of the child to the highest attainable standard of health, education, safety, security, protection from economic exploitation, sexual abuse and to rest and leisure.

### **Future Planning for strengthening CACL in Delhi**

It was decided that to rejuvenate the campaign in the state, election will be conducted soon and a new convener and working committee will be elected. The consultation ended with vote of thanks by Mr. Jitendra Kumar, Delhi state CACL convener.