

CHILD LABOUR IN INDIA

- a dossier

Compiled by -

Campaign Against Child Labour



Sponsored by United Nations Children's Fund (UNICEF)

Maharashtra State Office

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2. WHAT IS CHILD LABOUR?

- A working definition

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

The **child** is any person below the age of 14 years.

Child labour is that form of work a child is engaged in which is detrimental to the growth and development of the child. Family labour which interferes with a child's education, recreation, or physical, mental, or moral health would also be considered child labour.

Some other definitions :

When the business of wage earning or of participation in self or family support conflicts directly or indirectly with the business of growth and education, the result is **child labour**.

The function of **work** in childhood is primarily developmental and not economic. **Children's work**, then, as a social good, is the direct antithesis of **child labour** as a social evil.

(Source : Encyclopaedia of Social Sciences)

Child labour includes children prematurely leading adult lives, working long hours for low wages, under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future.

(Source : Report of the Director General of the International Labour Organisation, 1983)

3. HOW MANY CHILDREN?

- The magnitude of the problem

Several estimates have been made about the magnitude of the problem of child labour in India varying from as low as 10.74 million (1971 Census) to 100 million.

- According to global labour force estimates of the ILO, every fifth child in the age group of 10-14 years was part of the country's active labour force. The number of child workers in India was estimated at 15.1 million in 1975.
- 1971 Census estimated child workers below the age of 15 years at 10.74 million.
- The NSS 32nd Round (1977-78) estimated child workers in the age group 5-14 at 16.25 million in 1978. The 1983 NSS puts the figure at 17.36 million.
- According to 1981 Census 13.6 million children are in the labour force (11.2 million as main workers and 2.4 million as marginal workers).
- In 1983, the Planning Commission had projected the number of child workers at 17.36 million.
- The findings of the Operations Research Group, Baroda, (published in 1983) came up with an estimate of 44 million working children in India. This figure is based on an All India Child Labour Sample Survey conducted by the Operations Research Group in 1980-81.

(Source : Manjari Dingwaney, *Children of Darkness*.)

- The Balai Data Bank puts the figure at 111 million.

All these estimates fall short of the actual figure for a number of reasons :

- multiplicity of definitions,
- different methods of estimation
- various sources of data
- lack of information on the vast unorganised sector of the economy which, in fact, employs the most children.
- under-reporting in industries where child labour is regulated.
- non-inclusion of domestic workers, especially girls engaged in full time housekeeping and sibling minding duties.

**STATEWISE DISTRIBUTION OF WORKERS IN THE AGE GROUP 0-14
YEARS ACCORDING TO 1971 CENSUS AND 1981 CENSUS**

Sl. No.	States/UTs	No. of workers in age group 0-14 years	
		1971 Census (000s)	1981 Census (000s)
1.	Andhra Pradesh	1627	1754
2.	Assam	239	-
3.	Bihar	1059	893
4.	Gujarat	518	462
5.	Haryana	138	142
6.	Himachal Pradesh	71	60
7.	Jammu & Kashmir	70	109
8.	Karnataka	809	966
9.	Kerala	112	68
10.	Madhya Pradesh	1112	1372
11.	Maharashtra	988	1263
12.	Manipur	15	17
13.	Meghalaya	30	39
14.	Nagaland	14	14
15.	Orissa	492	515
16.	Punjab	233	179
17.	Rajasthan	587	589
18.	Sikkim		7
19.	Tamil Nadu	713	871
20.	Tripura	17	19
21.	Uttar Pradesh	1327	1246
22.	West Bengal	511	523
23.	Andaman & Nicobar Islands	1	1
24.	Arunachal Pradesh	18	14
25.	Chandigarh	1	1
26.	Dadra & Nagar Haveli	3	2
27.	Delhi	17	24
28.	Goa, Daman & Diu	7	6
29.	Lakshadweep	0.03	-
30.	Mizoram	4	31
31.	Pondicherry	4	3
All India		10734	11168

While figures from the 1991 census are not yet available, some inferences can be drawn from more recent school enrollment figures :

Computation based on the fifth all-India Education Survey indicate that 113.19 million children were enrolled in school in the classes I - VIII in 1986, representing 66.6% of the children in the relevant age group. This leaves 56.76 million children out of school.

Apart from this, the 42nd round of the National Sample Survey 1986 indicated that only 95.16 million children were actually attending school in 1986, adding another 18.03 million to the potential child labour force, bringing the estimated total to around 74.8 million children out of school and probably engaged in child labour of some sort.

4. WHAT WORK DO CHILDREN DO ?

- Some details



More than 80% of working children belong to the rural areas and work in the primary sector of the economy. According to the 1981 Census about 86.4% of the child work force is employed in agricultural and allied activities in the rural sector.

In the primary sector, a majority of the child workers are directly associated with agriculture as cultivators and labourers. Among them, again, a majority belong to the category of agricultural labourers. For many such cultivating families which own some land, the work of the child may be in lieu of an adult member of the family who has gone to the city to work. Thus, in most cases, the children are replacing adult workers and their work is not just socialisation and training but provides crucial inputs to family earnings.

Data based on 1974-75 Rural Labour Enquiry, clearly shows that for landless agricultural labourers, the average annual number of days of wage paid employment

for children is higher than that of women and compares favourably with that of adult men.

The secondary sector is the next important area of child employment particularly in urban areas. More than one-third of urban workers in this sector are children and more than a fourth of them belong to the non-household industries and construction.

(Source : Dingwaney)

from REPORT OF THE INTERNATIONAL LABOUR CONFERENCE, 1983

The Report asserts that child labour in urban activities, though sometimes found in the organised sectors, can be considered to be a problem mainly of the unorganised sectors. The work force of entire industries (mainly small scale and informal sector enterprises) in some African and Asian cities consists largely of low paid child labour. The report points out the economic activities in which children participate :

1. **Domestic work** : such as cleaning, cooking, child care and other chores in the child's own household undertaken by children in almost all societies.
2. **Non-domestic but non-monetary work**: this covers such activities as farm work, fuel and water collection and hunting. Even in the urban sector many urban household production units engaged in trade and services as well as in artisanal manufacturing production rely on children for activities such as running errands, guarding goods, marketing, etc.

3. **Bonded labour:** usually illegal, it arises as one of the obligations to landlords whereby the provision of child labour is part of the family's rent or in a situation where children are given in settlement of debts.
4. **Wage employment:** children working as part of a family group or individually in agricultural sites, in domestic services, in manufacturing and services activities, etc. They may work on a piece rate or time rate basis, as regular or casual workers, in jobs that may or may not involve some training.
5. **Marginal work:** the types of activities in this category vary in nature and intensity. They may be irregular or of a short-term nature such as selling newspapers, shoe-shining, 'looking after' cars, garbage collection and sorting out objects from garbage.

The following table shows estimates of the number of children working in various industries, based on several different studies :

1.	Match and fire works	Shivakashi	50,000-80000
2.	Stone quarries	Kerala	
		Markapur (AP) and	
		Mandsaur (MP)	20,000
3.	Mines	Meghalaya	28,000
4.	Fishing	Kerala	20,000
5.	Handloom	Trivandrum	10,000
6.	Hosiery	Tirupur	4,000
7.	Lock industry	Aligarh	7,000-10,000
8.	Carpet weaving	Jammu & Kashmir U.P.	1,00,000-1,50,000
9.	Glass	Ferozepur (UP)	50,000
10.	Pottery	Khurja (U.P)	5,000
11.	Gem polishing	Jaipur	13,000

(Source : Dingwaney)

Apart from this, large numbers of children work in urban areas in the following occupations :

- helpers in tea stalls
- rag pickers
- domestic help
- garages & petrol pumps helpers
- shoe-shine boys
- construction workers
- helpers in hotels

In cities, children also frequently end up being lured into prostitution, dealing in drugs and illicit liquor, petty crime and begging.

5. WHY DO CHILDREN WORK?

- Causative factors

It would be worthwhile here to take a look at the other side of the picture. Why is there **no** child labour in, for instance, the match industry in Kerala? A study conducted by the Industrial and Technical Consultancy Organisation of Tamil Nadu Limited, for the United Nations Children's Fund cited the following reasons :

- a higher level of wages for adults, and consequently of family income, as compared to Tamil Nadu.
- implementation of land reforms.
- better availability of social services such as the public distribution system, health and housing.
- smaller family size.
- an excellent educational infrastructure, and low drop-out rate.
- vigilant trade union, political, and NGO action, ensuring implementation of labour laws.
- higher literacy among parents, with greater aspirations for their children.
- a socio-political environment that frowns on child labour.

The CACL holds that the absence of the above mentioned factors contributes to the prevalence of child labour in India.

In addition to this, a major factor is that children constitute **a cheap, non-unionised, compliant work force** for profit hungry employers. This is what creates the demand for child labour. In fact, employers' greed is the single most important reason for the prevalence of child labour.

In some areas the **dominance of a particular community** engenders exploitation, resulting in bonded child labour. Children also take to the streets and enter the labour force as a result of **traumatic family situations**.

Among the various justifications put forward for child labour is the argument that children gain skills on the job. In reality it has been found that children do routine, repetitive jobs that do not in any way enhance their skills, at the same time depriving them of any chance to upgrade these through education or training.

The prevalence of child labour also raises the **moral issue of parental responsibility**. This is more starkly highlighted in cases where children are working and partially supporting an alcoholic or unemployed father, or where children are sold or pledged in exchange of loans. While the economic compulsions of the family cannot be ignored, the issue of the child's right must also be raised here.

The issue of child labour is thus inextricably linked with the need for overall social change. However, the CACL emphasises that children cannot wait, and there is a need for immediate action together with long term action for social change.

6. WHAT'S WRONG WITH CHILD LABOUR?

- Child labour and children's rights

India is now a signatory to the United Nations Convention on the Rights of the Child, which was adopted by the UN in 1989. The following is the text of India's declaration in this context:-

"While fully subscribing to the objectives and purposes of the Convention, realizing

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 cooperation; recognizing 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."

Article 32 of the Convention States that ;

State Parties recognize 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.

Paragraph 2 (a) calls for a commitment to provide a minimum age for admission to employment.

India's endorsement of the convention is so conditional as to be almost meaningless for the working child.



The prevalence of child labour grossly violates the child's rights stated above :

- A. **Hazardous work** : While the Child Labour Act of 1986 lists work considered 'hazardous', no distinction is made between work that is generally hazardous in nature and that which is hazardous specifically for a growing child.

Children in so called non-hazardous jobs are also exposed to dangers :

- Accidents are more likely to happen due to immaturity, physical and mental fatigue.
- Children are subject to physical abuse.
- Excessive hours of work are demanded from children.
- Dangerous jobs like creeping under machinery are given to children because of their size.
- More dirty work is given to children.
- Posture related problems are more hazardous for growing children.
- Children in prostitution are exposed to AIDS and ill-equipped for its prevention.

The following is a list of work related health hazards that children are exposed to :

Occupation	Health and injury hazards
1) Bidi industry	Chronic bronchitis, tuberculosis
2) Glass industry	Asthma, chronic bronchitis tuberculosis, eye defects, burns
3) Handloom industry Carpet industry	Asthma, tuberculosis, bronchitis, posture-related spinal problems.
4) Zari and embroidery	Eye defects
5) Gem and diamond cutting	Eye defects & injuries
6) Construction	Accidents, stunted growth
7) Rag pickers	Skin diseases, infectious diseases, tetanus
8) Pottery	Asthma, bronchitis, tuberculosis
9) Stone quarries, slate quarries	Silicosis
10) Sex workers	Sexually transmitted diseases, AIDS.
11) Agriculture	hazards related to farm machinery and pesticides.

B. **Economic exploitation** : A sample survey on the employment of child labour undertaken by the Labour Bureau of the Government of India in 1981 found that daily wages of child workers in plantations varied between Rs. 2 to Rs. 3.05.

- The Child Labour Advisory committee, U.P. found that children in the carpet industry were paid less than Rs. 3 per day.
- The average income of a working child in India is Rs. 90 per month.

It is easy to see that employing child labour benefits the employer and economic exploitation of children is the norm.

C. **Education** : In his book "The Child and the State in India", Myron Weiner has made an impassioned plea for making education truly compulsory, arguing that "(Indian's believe that) . . . the children of the lower classes should learn to work with their hands rather than their heads", and that this is the real reason for the persistence of child labour in our country.

While this position is open to debate, the fact remains that the prevalence of child labour deprives millions of children of the right to education enshrined in Article 28 of the Convention on the Rights of the Child.

D. **"Moral, Mental and Spiritual development"** : In a study in Bombay, it was estimated that 20% of prostitutes are minors. Health experts have estimated that 30% of the city's prostitutes are HIV positive.

In Karnataka and Orissa, the practice of child prostitution has religious and social sanction in the Devdasi System.

Apart from this, sexual exploitation of both girls and boys has been frequently found wherever child labour is employed. Children in major cities are employed in gambling, drug peddling, illicit liquor businesses, and other anti-social activities at a tender age, in gross violation of their rights under Articles 33 and 34 of the Convention.

E. **The Girl Child** : The 1981 Census figures show that in almost all categories, rural and urban, where children are employed, the percentage of girls as main workers is consistently higher than boys.

Besides this, girls are engaged in caring for younger siblings, cooking, cleaning, fetching water, fodder and fuel. These activities, while effectively depriving them of their rights, are often not considered child labour because they are non-remunerative.

A study in 1985 estimated that by the time she ceases to be a child, the girl in rural India has contributed to the family the equivalent of Rs. 39,600. An end to discrimination based on sex, though enshrined in the Convention, remains a distant dream.



7. ISN'T THERE A LAW AGAINST IT?

- Child labour legislation

An overview of 100 Years of Legislation Pertaining to Child Labour

1881 The Factories Act (1881) provided:

- i) minimum age (7 years)
- ii) successive employment (employment in two factories on the same day) prohibited);
- iii) duration of employment (working hours not to exceed nine hours a day and at least four holidays to be given in a month);
- iv) factories employing 100 or more persons were covered by this Act.

1891 The Factories Act was revised with respect to the following matters:

- i) minimum age (increased to 9 years);
- ii) hours of work (maximum seven hours per day, with prohibition of work at night between 8 pm and 5 am.).

1901 The Mines Act (1901) was passed which prohibited:

- i) employment of children under 12 years;

1911 The Factories Act of 1911 provided:

- i) hours of work (work between 7 pm and 5.30 am prohibited);
- ii) work in certain dangerous processes prohibited;
- iii) certificate of age and fitness required.

1922 To implement the ILO Convention (No.5), 1919; the Factories (Amendment) Act (1922) provided for changes such as:

- i) minimum age (15 years in general);
- ii) working hours (maximum 6 hours, and also an interval of half an hour if children are employed for more than 5 1/2 hours)
- iii) scope of Act (establishments employing 20 or more persons with mechanical processes were covered with power to local government to exclude the provisions to premises employing 10 or more persons);
- iv) prohibition of employment of children below 18 and women in certain processes;
- v) provision for medical certificate plus certificate of re-examination for continuing work.

1923 The Indian Mines Act (1923) -

raised the minimum age for employment from 12 to 13 years.

1926 The Factories (Amendment) Act (1926) -

imposed certain penalties on the parents and guardians for allowing their children to work in two separate factories on the same day.

1931 The Indian Ports (Amendment) Act (1931) -

laid 12 years as the minimum age that could be prescribed for handling goods in ports.

The Report of the Royal Commission on Labour (1931) had an impact on legislation pertaining to Child labour during the period 1931 to 1949.

1932 The Tea District's Emigrant labour Act (1932) -

Passed to check migration of labourers to districts like Assam, the act provided that no child under 15 should be employed or allowed to migrate unless the child is accompanied by his parents or adult on whom the child is dependent.

1933 The Children (Pledging of Labour) Act (1933) -

prohibited pledging of children - i.e. taking of advances by parents and guardians in return for bonds, pledging the labour of their children - a system akin to that of the present day bonded labour system. This practice of pledging of labour or children, found in areas such as Amritsar, Ahmedabad, Madras etc. in carpet and bidi factories was noticed by the Royal Commission. The children in these situations were found to be working under extremely unsatisfactory working conditions. Hence, the Royal Commission recommended the expediency of penalising the giving of advances to secure the labour of children and that the bond pledging the labour of a person under 15 years executed on account of any consideration should be void. It was observed by the Commission:

"The system is indefensible, it is worse than the system of indentured labour, for the indentured labourer is, when he enters on the contract, a free agent, while the child is not."

1934 The Factories (Amendment) Act (1934) -

had elaborate provisions for regulating the employment of children of various age groups with regard to factories, such as:

- i) children under 12 years - employment generally prohibited;
- ii) children between 12 and 15 years - employment restricted to 5 hours a day;
- iii) children between 15 and 17 years - certain restrictions were imposed.

1935 The Mines (Amendment) Act (1935) -

also introduced divisions of children according to age groups and the position which emerged was as follows:

- i) children under 15 years - employment in mines was prohibited;
- ii) persons between 15 and 17 years - underground employment was permitted only on production of certificate of physical fitness granted by a qualified medical practitioner;
- iii) working time restricted to maximum 10 hours a day and 54 hours a week for work above the ground and 9 hours a day for work underground.

1938 The Employment of Children Act (1938) -

was passed to implement the convention adopted by the 23rd session of ILO (1937) which inserted a special article for India:

Children under the age of 13 years shall not be employed or work in the transport of passengers, or goods, or mails, by rail, or in the handling of goods at docks, quays of wharves, but excluding transport by hand. Children under the age of 15 years shall not be employed or work . . . in occupations to which this Article applies which are scheduled as dangerous or unhealthy by the competent authority.

This Act:

- i) prohibited the employment of children under 15 years in occupations connected with transport of goods, passengers, mails on railways;
- ii) minimum age for handling goods on docks was raised from 12 to 14 years;
- iii) requirement of certificate of age.

1948 The Factories Act (1948) -

raised minimum age for employment in factories to 14 years.

1949 Employment of Children (Amendment) Act (1949) -

raised the minimum age to 14 years for employment in establishments governed by that Act.

1950 The Constitution of India -

in its chapters on Fundamental Rights and Directive Principles of State Policy included provisions relating to employment and welfare of children such as:-

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

Further, Article 39 provides:

- e) that ... tender age of children is not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- 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.

1951 Employment of Children (Amendment) Act (1951) -

(as a result of the ILO Convention relating to night work of young persons)

prohibited the employment of children between 15 and 17 years at night in railways and ports and also provided for requirement of register for children under 17 years.

1951 The Plantations Labour Act (1951) -

prohibited that employment of children under 12 years in plantations.

1952 The Mines Act (1952) -

prohibited employment of children under 15 years in mines. The Act stipulated two conditions for underground work-

- i) requirement to have completed 16 years of age; and,
- ii) requirement to obtain a certificate of physical fitness from a surgeon.

1954 The Factories (Amendment) Act (1954) -

included prohibition of employment of persons under 17 years at night ("Night" was defined as a period of 12 consecutive hours and which included hours between 10 pm and 7 am)

1958 The Merchant Shipping Act (1958) -

prohibits children under 15 from being engaged in any capacity in any ship, except in certain specified cases.

1961 The Motor Transport Workers Act (1961) -

prohibits the employment of children under 15 years in any motor transport undertaking.

1961 The Apprentices Act (1961) -

prohibits the apprenticeship/training of a person under 14 years.

1966 The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 -

prohibits:

- i) the employment of children under 14 years in any industrial premises manufacturing bidis or cigars;
- ii) persons between 14 and 18 years to work at night between 7 pm and 6 am.

1978 Employment of Children (Amendment) Act (1978) -

prohibits employment of a child below 15 years in occupations in railway premises such as cinder-packing or clearing of ash pit or building operation, in catering establishment and in any other work which is carried on in close proximity to or between the railway lines.

(Source: Dingwaney - Children of Darkness)

THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

No. 61 OF 1986

(23 December, 1986)

The following Act of parliament received the assent of the President on the 23rd December, 1986, and is hereby published for general information in Gazette of India (Ext) Part II Sec. I.

An Act to prohibit the engagement of children in certain employments 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 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 or establishments.

2. Definitions:-

In this Act, unless the context otherwise requires -

- i) 'appropriate Government' 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 case may be, of such individual 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 mid-night 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, 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 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.

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 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-committees and may appoint to 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 or 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.

PART III

Regulation of conditions of work of Children

6. Application of part :

The provisions of this part shall apply to an establishment 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 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 waiting for work on any day.
- 4) No child shall be permitted or required 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 establishment.

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 a 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:-

- 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 establishments, 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, 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 relation to any establishment" means the date of bringing into force 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;
- c) the nature of work of any such child; and
- d) such other particulars as may be prescribed.

- 12. Display of notice containing abstract 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;
 - o) self-acting machines;
 - p) easing of new machinery;
 - q) floor, stairs and means of access;
 - r) pits, sumps, openings in floors, etc.;
 - s) excessive weights;
 - t) protection of eyes;
 - u) explosive or inflammable dust, gas, etc.;
 - v) precautions in case of fire;
 - w) maintenance of buildings; and
 - x) 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 thereunder,

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;
 - b) Section 40 of the Mines Act, 1952;
 - c) Section 109 of the Merchant Shipping Act, 1958; and
 - d) Section 21 of the Motor Transport Workers Act, 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.

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 generality 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 charge 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 thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 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, 1931** is hereby repealed.
- 2) Notwithstanding 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 clause, 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;
- ii) 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 to or between the railway lines;
- 5) A port authority within the limits of any port.

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.

C. Raman Menon,
Additional Secy. to
Govt. of India

A PERSPECTIVE ON THE CHILD LABOUR ACT 1986

From Report of the Task Force on the Implementation of the Child labour (Prohibition and Regulation) Act, 1986, and the Legal Action Plan Contained in the National Child labour policy, constituted by the Central Advisory board on Child labour, Ministry of Labour (1989).

The Child Labour (Prohibition and Regulation) Act, 1986, replaces the Employment of Children Act of 1938 which stands repealed [S.21 (1)] but also reproduces sections 3(1) and 3 (3). The provisions of this Act override the provisions in all other Acts relating to Child Labour. (S.20). Its objectives include prohibiting employment of children in certain occupations, regulating the conditions of work in permissible occupation, and obtaining uniformity in the definition of child for various laws relating to child labour. The new Act is different from the old, in that it regulates child labour in those occupations where a child may work.

The positive aspects of the Act include the following:

- it increases and makes more stringent the penalties for employing child labour in violation of the law for factories, mines, merchant shipping and motor transport [S.15(1) & (2)];
- it provides a uniform definition of the "child" by replacing the definition in all other relevant Acts, i.e., a person who has not completed his fourteenth year of age;
- it defines "family" and thereby makes it more explicit, thus precluding the possibility of its abuse;
- it empowers the Union Government to bring into force provisions that regulate conditions of work of children in non-hazardous employments and also empowers State Governments to make rules for further regulation. Instead of using the language of the Constitution (i.e. hazardous and non-hazardous employments), the Act divides the world of work for child labour into prohibited "occupations and processes in a workshop" and establishments where none of these prohibited occupations and processes are carried on;
- it provides the machinery, i.e. the Child Labour Technical Advisory Committee, for adding to the list of occupations and processes in which the employment of child labour is prohibited (this was not possible in the Employment of Children Act, 1938);
- it permits any person, besides a police officer or inspector, to file a complaint against anyone employing or permitting a child below fourteen in the prohibited occupations and processes. These complaints have to be filed with a court not inferior to that of a Metropolitan Magistrate or a Magistrate of the first class; and
- it makes the display of S.3 (i.e. the prohibition of employment of children in certain occupations and processes) and S.14 (i.e. penalties for offences in violation of S.3) a mandatory requirement for the railway administration, the port authority and the occupier. (S.12).

Limitations of the Act :

The Child labour Act of 1986 defines a child as a person who has not completed his fourteenth year of age. As this Act overrides other labour legislations so far as they relate to child labour, it has resulted in lowering the age for a child's entry into some prohibited employments such as motor transport, merchant shipping and factories.

The new Act does not include Section 3(2) of the 1938 Act which prohibited night employment of persons below 17 years of age.

Many of the children working in the agricultural sector and some of those working in the unorganised sector would appear to be outside the regulatory reach of the Act.

Section 3 of the Act, which exempts processes carried on by the occupier with the aid of his family or any schools established by or receiving assistance or recognition from government, is susceptible to abuse.

It is important to note that the new Act omits Section 3(B) of the Employment of Children Act, 1938 requiring that a notice be sent to the inspector before any of the prohibited processes are started in any workshop, regarding the name and situation of the workshop, the name of the person in actual management, the address for communication, and the nature of processes to be carried on in the workshop. As a result of this omission, the burden of tracking down such processes is now shifted on to an under-staffed and ill-equipped Labour Inspectorate or private individuals. Second, the provision of a mandatory notice would have acted as a deterrent in itself to some extent against employing children.

The Act requires, inter alia, a display of S.3 without specifically requiring the display of the occupations and processes in Part A and Part B of the Schedule in which employment of children is prohibited. Obviously, display of S.3 by itself would not be intelligible to the public at large. Therefore, the purpose of mandatory display is rendered nugatory.

Moreover, Section 12 cannot come into force till the Central Government notifies a date in the official gazette under Section 1(3) for bringing Part III into force. There is also an apprehension that Section 12 may remain only a paper provision if a notification under Section 1(3) is not issued generally bringing into force Part III as a whole and is confined only to clauses of establishments in different States. A serious anomaly would arise if the regulatory provisions of Part III are brought into force by a notification under Section 1(3) in respect of certain establishments in certain States only and if these provisions are not extended to the same establishments in other States. Such a piecemeal application of part III of the Act would be open to question, socially, economically and legally.

Section 12 which imposes the obligation to display the notice comes in part III of the Act, which pertains to regulation of conditions of work of children, instead of being included in Part II, which pertains to the prohibition of employment of children in certain occupations and processes.

One of the pivotal provisions of the 1986 Act is the definition of "establishment". Section 2(iv) defines establishment as follows:

"Establishment includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment."

The regulatory provisions relating to conditions or work of children embodied in Part III apply only to establishments or classes of establishments in which none of the occupations and processes in which employment of children is prohibited is carried on. The statutory definition of establishment adopts a significantly different phraseology than that adopted in some of the other definitions in the same statute. For instance, Section 2(ii) says that child "means" a person who has not completed his fourteenth year of age. The use of the word "includes", in contra distinction to the use of the word "means", indicates that the definition of "establishment" is illustrative and not exhaustive. In other words, "establishment" may well include other avocations, outlets or activities. Establishment at present defined explicitly includes farm, but it is not clear as to which of the other activities in the agricultural sector may qualify as an establishment. The present definition of establishment does lead to considerable scope for extension and enlargement. But there are obvious limits, because the word "establishment" may not bear an extension or enlargement beyond a certain point. It may well be argued that the word "establishment" has to be construed as taking its colour from the specific activities and outfits mentioned in Section 2(iv). For instance, a literal interpretation of the word "establishment" would obviously preclude child labour employed in homes from being notified by provisions of part III. It may also transpire that children working as a part of the family may be pressed into hazardous work which is prohibited under Part A or part B of the Schedule because of the exemption carved out by the proviso to Section 3 in respect of families and work experience acquired by children. It is noted with apprehension the possibility of child workers being exposed to dangerous processes and occupations, particularly if the proviso to Section 3 is used as a cloak for malpractices employed for the exploitation of child labour.

There are two kinds of regulations :

One, those provisions that come into operation the moment Part III is declared operative from a particular date either generally or vis-a-vis specified States and clauses of establishments (S. 7(2), (3), (4), (5), (6), S. 8 and S.11). Since Part III has been brought into force from a specified date only for certain States and certain establishments, the above mentioned provisions (relating to the regulation of work hours, over-time, holidays, rest periods, etc.) apply not to all establishments throughout the country but only to the six States and three processes in establishments specified.

Two, those provisions, for example, S.7(1), which can come into play only after Part III comes into force generally or viz-a-vis certain States and establishment.

The enforcement of regulatory provisions in Part III also depends on framing a notification of rules by the appropriate Government. For instance, the regulatory provisions of Section 7 cannot be applied unless the appropriate government makes rules under Section 18(2) (b) providing the number of hours in which a child may be required or permitted to work under sub-section (1) of Section 7. Similarly, Section 11 which provides for maintenance of register by every occupier in respect of children employed or permitted to work in any establishment cannot be fully implemented unless the appropriate Government makes rules under Section 18(2)(d) prescribing the other particulars which such rules should contain.

Power to remove difficulties :

We may note in passing that Section 21(1), which enables the Central Government to make necessary provisions to remove difficulties in giving effect to any of the provisions of the 1986 Act as may appear to the Government to be necessary or expedient, is to expire shortly, viz., on the expiry of a period of 3 years from the date on which the 1986 Act

received the assent of the President. During the period of three years following the Presidential assent, no order has been made under Section 21(1), perhaps because the Act has yet to attain full-fledged functioning.

The Task Force views the 1986 Act as a special kind of protective and ameliorative transitional legislation in a very special area of human concern. We find, however, that the Act is cast in the customary, conventional mould. It does attempt to prohibit child labour in certain sectors and to regulate the conditions of work by children in certain other employments. It does not, however, embody mandatory provisions for education, for vocational training for working children, for health care, nutrition and other such welfare measures, for levying a cess, for creating a National Child labour Welfare Fund, for public consultative mechanisms in the functioning of the Technical Advisory Committee for strengthening and assisting the autonomous activities of voluntary agencies and for a speedy, informal and authoritative resolution of grievances and disputes by a special machinery imbued with special concern for child workers, such as a Child labour Ombudsman. The Central Advisory Board itself is not statutory. Nor are any status or progress reports submitted to the parliament and State Legislatures regularly. There is no provision for Standing Committees either in the Rules and Procedures of the Houses of Parliament or State Legislatures. Some of these matters may, no doubt, be dealt with through administrative programmes of the Central and State governments, but it is the view of the Task Force that many of these concepts deserve to be translated at a higher level of institutional responsibility and into statutory provisions which would not depend on the variables of discretionary initiatives. From this point of view, the Task Force endorses and reiterates the recommendations made by the Chairman and the Convenor of the Task Force in his Preface which should be read with this Report and as a part of it. The Task Force is also of the view that the Act should articulate its commitment to the progressive reduction and the eventual elimination of child labour except where it is conducive as work experience that does not interfere with the normal growth and development of the child.



(From "THE TIMES OF INDIA")

SMALL CHANGE

(Gunvanthi Balaram on why the latest legislation on child labour is unlikely to liberate children condemned to a life of drudgery.)

Despite the fact that every 18th child in the country is a labourer, only one errant employer was booked under the Child Labour (Prohibition and Regulation) Act in Maharashtra in 1992. A building contractor was prosecuted for having a little boy slave on his construction site in Beed. And in 1993, there are yet to be any prosecutions; this in a state that, according to the 1981 census, had 1,26,000 child labourers.

In Delhi, noted human rights activist Swami Agnivesh complains that there have been no convictions under the Act recently either in the Union Territory or in other notorious northern tracts like Ferozabad, Mirzapur and Aligarh. Accusing the government of "criminal callousness", the Bandhua Mukti Morcha chief points out that "it is just not interested in implementing the Supreme Court judgements regarding child labour in quarries and the carpet industry."

Evidently, the curbs proposed by the U.S. and Germany against the import of commodities from India, produced partly or largely by child labour, have made little difference to the powers that be. The government's intention to amend the Child Labour Act, seeking to bring the child worker's wage on par with that of the adult has only drawn flak from activists. It will only add to the loopholes in the Act and perpetuate a pernicious practice, says Agnivesh.

But in Karnataka, which has a contingent of 9.6 lakh working children, Kavita Ratna of the Bangalore based voluntary group, Concerned for Working children (CWC), regrets that even seven years after it was passed, the Act-loopholed or othersie-simply does not "exist" in the state.

In fact, it was only on May 26 this year that the third chapter of the Act- which pertains to the regulation of child labour- came into force. "Until then there was no way one could improve the kids' working conditions or regulate their hours of slog," say activists with CWC and the Campaign Against Child labour (CACL), a recently formed Bombay based umbrella organisation of NGOs dealing with working children.

Indeed, the Child Labour Act has not worked in most states, including Maharashtra and Karnataka, because the local administrations have failed to frame and notify the rules as the act requires them to, complain NGOs. Moreover, even labour inspectors cognisant with the new Act are loath to book the employers of child labour because they believe that "the kids and their families would then probably starve," says Dr. Sharad Sawant of the Maharashtra Institute of Labour Studies. Which explains why a country which, according to the Operations Research Group, has 44 million child workers, had only 3,488 prosecutions between mid 1986 and mid 1993 under the Child Labour Act, with 1,426 convictions.

In Maharashtra, the country's third largest employer of child workers, after Andhra Pradesh and Madhya Pradesh, the discrepancies in the Act and the Bombay Shops and Establishments Act of 1948 have led to much confusion among enforcement officers. The two differ on their definition of "child", as also on the penalty for employing child labour. The central legislation, more crucially, deals with only "hazardous" industries and is silent on the informal sector. And although theoretically the central Act is supposed to get precedence, it is the Shops' Act which is enforced, if at all.

This has ensured that the wily employers of child labour in the state's vast informal sector - particularly the restaurant business, which employs an army of children (Bombay

alone has over 50,000) - go almost scotfree. For, while the Bombay Shops Act does prohibit the employment of children under 15 in any of the establishments mentioned in the Act, i.e. commercial establishments, residential hotels, eateries etc, the penalty is "ludicrously flimsy; Rs. 50 to 500," admits Maharashtra's additional labour commissioner, M.B. Gajre. The culprit coughs up, only to recover the money by driving his child slaves again in a few hours. "The fines in our various labour laws must be revised; in fact, we must introduce deterrent punishment into the Shops' Act if this malaise is to be stemmed," says Gajre.

But activists are agitated less because the fines are paltry and more because the number of culprits booked is equally pitiful. For instance there were only 354 prosecutions in 1992 and 114 till June '93 in Maharashtra. "Frustrating," mutters CACL activist Minar Pimple of YUVA, which runs shelters for street children in Bombay, "Particularly when you consider that Maharashtra has 10 lakh registered shops and establishments- 3.02 lakh in Bombay - with 17 lakh employees, at least a quarter of whom are underage," add A. Jockin and S. Kumar of SPARC, an NGO that works with ragpickers and wadi workers in the metro.

In Yavatmal district of Maharashtra, which has a high incidence of child labour, it took the ghastly death of eight-year old Shiva, a kitchen hand in an eatery in Wani, to spur the labour department into action. (Shiva, it may be recalled, was beaten to death with iron rods by the hotel proprietor about three months ago.) Investigations were carried out and 15 persons in the district have been prosecuted under the Shops' Act for employing children over the last few weeks, says Gajre.

"But enforcing the law is no easy task," says Gajre. "Not only do we face an attitudinal problem - inspectors do not like to throw kids out of their jobs - but we are short staffed as well." There are only 100 labour officers (as always there are many vacancies: 25 in this case) to cover the 27,000 registered factories and 10 lakh shops and establishments in the state, he reveals. "Moreover, our officers have to enforce 14 different acts, so they don't have the time to concentrate on the problem of child labour," he explains.

Human rights activists, however, assert that the government should stop shielding itself behind statistics. While they are reconciled to the fact that it is a long haul to eradicating child labour in the country, they think that it is high time the governments drew up an action plan to give working children a better deal.

"It can start with little things like setting up more shelters for street children or having recreation centres for child workers," says Mansur Umar, an activist with Vatsalya, a pilot project with street children launched in 1983 by Bombay's College of Social Work. Umar, who is studying the life of 500 odd tea stall boys in Bombay's downtown borough of Masjid Bunder, is trying to get the labour commissioner to provide the boys two hours of recreation a day.

Minar Pimple and other CACL activists, who are currently working on an alternative report on children's rights for the Union government, believe that the need of the hour is to bring all laws on child labour on par - i.e. standardise the minimum age of child worker at 16 - while making the penalties harsher. The government should also specify certain processes and areas where children should not be allowed to work in, like ragpicking in dumping grounds, where they are exposed to poisonous gases or in hotel kitchens where there are various hazards.

The Maharashtra government is quick to point out that its labour minister had agreed last month to set up a working group to discuss how to remove the discrepancies between the Child Labour Act and the Bombay Shops Act. The group will comprise lawyers, activists, academics and government officials.

(With inputs by Govind Belgaumkar in Bangalore and Syed Zubair Ahmed in Delhi)

8. WHAT CAN BE DONE ?

- Action alternatives

Alternatives to Child Labour

'(An abstract from a paper by George Chira, Programme Co-ordinator, Terre Des Hommes (Germany) India Programme)

The working situation of children is not a normal situation, on the contrary it is very much unnatural to childhood, and therefore the situation needs to be changed their release is the first and most necessary form of rehabilitation. What is required for the children who are being released from a working situation is a concrete and real alternative. An alternative is required also for those children who are on the verge of being drawn into employment. If a choice of employing children exists, that choice would be appropriated. When no such choice exists, it becomes impossible to look on it as an alternative. Hence 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. If a ban on employment is effectively instituted, the only real loser will be the employers.

Another alternative that comes to mind is the imposition of free and compulsory education for all children under 14 years. The next question revolves around the nature of education itself. Education itself is not integrated with regional needs, socio-economic frame-work, or the skills that are required in agriculture, water management and so on. The task of re-organising or restructuring education and experimenting with different approaches should go side by side with the enlisting of children into the education system and universalising primary education immediately.

Another preventive measure would be the development of the community from which children are entering the labour force. This would include improvement of the quality of land, promotion of sustainable forms of agriculture, restoration of land rights, conservation of forests and water resources. In the case of those who are landless, the immediate need is to implement minimum wages legislation and to periodically review and revise minimum wages. Needless to say, provision of sufficiently paid employment opportunities for adults becomes the key stone of working out alternatives to child labour.

As against the argument that poverty, under-development and unemployment are the causes of child labour, child labour can also be seen as a cause of poverty and under-development, because it deprives the nation of a skilled and trained labour force, and further contributes to adult unemployment. This brings one again to the necessity of doing everything possible to eliminate the possibility of employing children as an available option.

Children who are already working : The immediate need is release of children in jobs that are either inherently hazardous or hazardous to children. The alternatives available for these children are :-

- Residential or non-residential education centres with the possibility of skill upgradation and eventual procurement of employment.
- Temporary rehabilitation centres for children released from work with gradual integration into the formal school system.
- Sponsorship programmes for rehabilitation of working children.

- Technical training programmes to enable former working children to form co-operatives for running enterprises.
- Pressure on authorities and politicians to start and run schools effectively in all villages, and to undertake anti-child labour programmes.

Children working in non-hazardous industries :-

While Child labour cannot be justified even in non-hazardous occupations, programmes for these children can be run in a more gradual manner:-

- the priority is to ensure minimum wages, as well as education for working children.
- it is absolutely necessary to empower the labour department to enforce regulatory legislation.
- creches attached to primary schools to enable children engaged in sibling care to attend school.
- an active effort to control school drop-outs by making school more interesting and enhancing teachers' skills.
- non-formal education programmes and protection and medical facilities for street children.

The struggle to defend the rights of children and build alternatives for working children has, also an international dimension. The decision making in the economic sphere is being taken over by the international elite. The struggle is therefore to be combined with a struggle for defending national interests and national sovereignty.

A Commitment to the child

The National Plan of Action brought out by the Government of India, Department of Women and Child Development in 1992 states - "To strengthen prevention of Child Labour, emphasis will be on compulsory education for all children and on strengthening anti-poverty and development programmes and focusing them on 'at risk' families."

"National Child Labour Policy 1987 will be taken up more vigorously for implementation".

However, the National Child labour Policy is itself fraught with contradictions :

A PERSPECTIVE ON POLICY & ACTION PLAN

(From the Report of the Task Force on Implementation of the Child Labour Act and Action Plan)

The Government of India formulated a National Policy on Child Labour and an Action Plan for Prohibition, Regulation and Welfare of child Labour soon after the Child Labour Act of 1986 was enacted by the Parliament of India. These two, namely the National Policy and Action Plan, are in fact not two distinctive and separate documents except for two additional but somewhat cryptic annexures appended to the Action Plan. The first Annexure tells us that each one of the proposed ten projects would have a Project Director, a Stenographer, two Assistants, one Lower Division Clerk and a Clerk. A comparable corresponding complement of additional staff of five (one Under Secretary, 1 Stenographer, 1 Assistant, 1 Lower Division Clerk and 1 Peon) for the Ministry of labour is provided for in the Annexure. The second Annexure estimates the expenditure for project staff for one year for ten projects at Rs. 38 lakhs, for additional staff in the Ministry of labour at Rs. 2 lakhs for 100 projects schools of 300 children each at Rs. 10 crores and for additional expenditure on poverty amelioration scheme at Rs. 60 lakhs. We are unable to understand how these two skeletal annexures could have been taken to transform the National Policy into an Action Plan and how these two identical documents could have passed muster under two separate banners giving the impression that the ship of National Policy was already sailing swiftly on a purposeful voyage mapped out by the Action Plan. A bare reading of the two documents is enough to dispel that illusion. Indeed, we would be failing in our duty if we did not add that the National Policy is obviously an underdeveloped and emaciated document and the so-called Action Plan does not deserve that evocative and reassuring nomenclature.

The National Policy on child Labour comprises of sixteen paragraphs. Seven paragraphs broadly deal with the background and the rationale. In the eighth paragraph, the National Policy encapsulates the future action programme under the following three heads :

- i) The Legislative Action;
 - 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.
- The Legislative Action Plan is disposed of by the National Policy in a single



paragraph, namely, paragraph 9. It refers primarily to the new mechanism of Child labour Technical Advisory Committee, to the need for effective implementation of the existing legislation to delete the provision contained in the Minimum Wages Act allowing different wages to be fixed for children, adolescents and adults. In the first place, the Legislative Action Plan proclaimed in paragraph 9 of National Policy contains very little in terms of areas of study and reform. Its perspective does not unfold the nation's vision or its anxiety and concern or its future projections and promises. We are of the opinion that the Legislative Action Plan should be radically recast and reformed if it is to inspire any confidence and if it is meant to map out the many legislative routes to social action and social defence.

The second part of the National Policy relates to focusing of General Development Programmes for benefiting Child Labour. In other words, National Policy was to be so directed and canalised as to "deliver benefit to child labour wherever possible." That is a valid and welcome objective, but the words "wherever possible", though seemingly innocent, make that objective a damp squib. There are four significant areas of general development programmes which were intended by the national Policy to be focused for benefiting child labour: Education, Health, Nutrition and Anti-Poverty programmes, including IRDP, NREP, RLGP etc. We find that the National Policy was framed in the most general terms and at best indicated that some benefits from general development programmes could be earmarked or specially canalised and allocated for the benefit of child labour "wherever possible." Firstly, the size of the total resources for general development programmes remained the same and they have always been so meager that a small fraction out of those negligible resources could never be meaningful. Secondly, no specific allocations were carved out or earmarked. No proportions or percentages were prescribed. No weightage for child labour mandated. To crown the irony of it all, a time-tested bureaucratic escape route was provided by qualifying the promise by the words "wherever possible." In a situation of extreme paucity of resources and fiercely competing claims, there could never be much hope for the child labour sector to wrest any sizable resources out of the allocations for ongoing general development programmes, particularly when there is no one to bargain on its behalf and no directly concerned Ministry in those developmental areas to take it as its protegee under its protective and promotional wings. No wonder therefore that this part of the National Policy holds out little promise and inspires no enthusiasm. Obviously, the whole approach has to be reappraised and a new institutional, functional and budgetary policy strategy has to be worked out.

The third segment of the National Policy relates to project based Plan of Action. It proceeds on the basis that there are certain sectors of employment and geographical areas where the incidence of child labour is high. Understandably, it does not concern itself with the unorganised sector of the agricultural sector or exempted family and school sectors. The Action Plan has chosen and listed ten project areas for evolving a package, programme based on the following six '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 purpose.
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 Governments 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. Coordinating the activities of the 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 at such special schools.

The Action Plan also speaks, quite fashionably but in vague and nebulous terms of 'infrastructures', 'intensive coverage', 'coordination', and 'monitoring. these terms and concepts, valid by themselves, evoke nothing but cynicism today because these cosmetic captions are frequently bandied about as substitutes for real and meaningful content. In fact, we find infrastructures and intensive coverage missing and the quality and extent of coordination and monitoring minimal and far from satisfactory. Since we did not have an opportunity of field visits and were unable to commission specific research projects, we refrain from entering into the thicket of the ground reality.

Broadly and briefly, we feel that the Action Projects which were meant to be the testing ground for the implementation of the Act and the Policy have so far failed to yield any sizeable worthwhile results. They need to be studied by the Task Force in depth and detail. We are provisionally of the view that the Action Projects may have to be modified and redesigned.

We find that only eight child labour projects, out of the originally anticipated ten projects, have been started. It appears that the State Government of Jammu and Kashmir has shown no particular interest in implementing an action project in their carpet weaving industry. As for the proposed project in Gujarat, diamond polishing industry in Surat, we were informed that the State Government responded negatively to the project, as it was reported that there were very few children under the age of fourteen employed in that industry. Unfortunately, as we were unable to visit the projects, we can only base our appraisal of the projects on the brief notes on the present status of the projects (which have been sanctioned), provided to us by the Government. These status reports, however, do not cover all the areas and aspects mentioned in the proforma for monitoring Physical and Financial Progress of projects under the National Policy on Child Labour, a format in which each State Government was required to report the progress on a quarterly/half yearly basis. It is not clear to us whether the summary status reports given to us are all that the Government have received from the concerned State Governments. If that is all there is, we are constrained to observe that action projects have neither been evaluated or monitored nor can they be evaluated or monitored on the basis of the status reports shown to us.

We give below a brief appraisal of one of the projects - Sivakasi - on the basis of first hand information secured by one of the members of the Task Force.

Sivakasi - Tamil Nadu

The Project Area including Sivakasi Panchayat Union, Sattur Panchayat Union, Vembakottai panchayat Union, Sattur Municipality, Sivakasi Municipality and thiruthangal Town Panchayat covers a part of the entire match industry belt. Further, the fireworks industry in which children are also found working in large numbers, despite the fact that it is in the banned sector, has not been included in the project.

A project society has been set up and registered with the project director and supporting staff. Although a survey conducted by the State Government in 1986/87 revealed that the number of child workers in the area was 14,121 and the number of child worker families was 11,893 and a UNICEF study, prior to 1985, indicated this number to be 45,000 children, originally 2000 working children were expected to be covered through 20 special schools to be set up by 8 voluntary organisations identified by the State Government. However, 11 schools for 1,150 children started functioning w.e.f. 24.09.88 and 5 others covering 350 working children started functioning by January 1989. Therefore, a mere 1,500 working children and not even the anticipated 2,000 children have been covered by this aspect of the project. Even for these few children the project has not succeeded in removing them from the hazardous conditions of the industry as the stipend of Rs. 100/- is not sufficient to keep their families from returning them to the labour market. Almost all these children go to the match factories early in the morning and in the evenings or do the same works for contractors in their homes.

In 1989-90, Rs. 25.25 lakhs were released out of a budget of Rs. 54.39 lakhs. In the previous fiscal year, Rs. 42.66 lakhs were released. This budget covers marginally 14,721 children and through special schools only 1,500. So the attempt to provide a real alternative covers not even 3% of the total estimated child labour in the Match Industry.

The State Government of Tamil nadu was asked to set up hundred N.F.E. centres in the project area and inform the Ministry of Labour so that the Ministry could provide funds for nutrition to the children in these centres. We are told that no such information has come to the Ministry as yet. It appears that under the employment generation and enhancement of the income scheme for child labour families in Sivakasi, all that was started was a printing press by Tamil Nadu Corporation for Development of Women Ltd., covering a mere 75 women at a cost of Rs. 11.61 lakhs. Assuming that 11,893 child labour families, revealed by the survey is accurate, one wonders why only 75 women have been covered and how, when and at what cost the other families will be covered.

As far as income generating schemes to provide assistance to child labour families are concerned, clarifications are still awaited from the State Government regarding their Rs. 25 lakh budget. If the trend of the last two years is any indication of the effectiveness of this project, the overall goal of removing child labour in the match industry appears unattainable in the foreseeable future.

Mirzapur - Bhandohi

From the very sketchy information provided to the Task Force, the situation of Child labour in the Carpet Industry of Mirzapur - Bhandohi, seems far from happy. At a total expenditure of Rs. 11.94 lakhs since 1988, only 10 special schools have been set up and as few as 500 children have been covered out of an estimated 50-60,000 child workers.

Newspaper reports of 1983 estimated a population of Rs. 1.75 lakh weavers that earned the exporters of carpets Rs. 140 crores.

RECOMMENDATIONS OF THE TASK FORCE

I

In the Preface to the Report and in the forgoing discussion in this Report on the Act of 1986, it has been pointed out that the problems of Child labour cannot be seen or solved in isolation. The Task Force views the problems of Child Labour on a much larger canvas than that envisaged by its terms of reference and therefore we feel that apart from the specific suggestions in respect of the Act of 1986, we should make some basic recommendations which would delineate the setting and the direction and will augment the momentum for an approach to the solution of the problems of Child labour. These eleven recommendations initially adumbrated and advocated in the Preface to the Report may not technically fall within our terms of reference, but we endorse them wholeheartedly, because they are vital to the fulfillment of the constitutional mandate and the social commitment of the Republic of India.

The Eleven Fundamentals

Firstly, we must see the Child as a human person in a holistic perspective. It is trite that working children and street children are first and foremost children and the problems of Child Labour have also to be seen as problems of children as such.

Secondly, we must view problems of the survival and development of children not compartmentally but in all their intertwined ramifications. In that perspective, infant mortality, malnutrition, unemployment or underemployment of adults, bonded labour, lack of a modicum of educational and recreational facilities including the absence of free and compulsory primary education, the fractured condition of the family institution, explosion of population, pervasive poverty and penury, bureaucratic ineptitude, frustration of voluntary agencies and workers and growing social defencelessness, helplessness and insensitivity are all knotted threads in the web of our predicament. We cannot hope to solve any of these problems without attempting to solve all of them and we cannot afford to despair or give up because these problems seem to be intractable and their magnitude tends to debilitate our morale. Nor can we shelve the problems of Child Labour until we have solved all others when the problems of Child Labour may automatically recede or disappear. Obviously, a concerted and dynamic thrust is what we need to sustain.

Thirdly, we need to accord the welfare of the child the highest and overriding priority in all schemes of development taking into account the fact that children upto 14 years of age constitute 40% of India's teeming millions. That priority must be unequivocally settled and fixed. What is more important, it should be translated into concrete terms by means of ample funding and generous allocation of resources, policy making and programming, social audit and evaluation, and public and parliamentary accountability. For too long, the Indian nation has allowed lip service to be a substitute for the substance of sustained social defence and transformation. The time has come to recognise the primacy of the Rights of the Child and to take effective steps on the basis of that primacy to promote the cause of Child Development, and the goal and strategy of prohibition, regulation and progressive elimination of all child labour with any trace of exploitative potential or injurious propensity. We feel that the question of according primacy and overriding priority to child welfare is not to be treated as an amorphous, vague, rhetorical and didactic generalisation. That priority ought not to be allowed to become an empty verbiage or an occasional incantation. It should be reflected in our

national policies, programmes, budgeting and the design of public and private life.

Fourthly, as an earnest of according the highest priority to the child, there should be a Joint Committee of the Houses of Parliament and a similar Committee in State Legislatures, as a Standing Committee to represent the unrepresented constituency of the child. A Parliamentary Committee would become a safeguard of accountability in the forum of our national conscience, a significant propeller and pressure group, a vehicle for change, a compass for a sense of direction, a monitoring mechanism and an institutional catalyst.

Fifthly, there should be a single Ministry or Department for Child Welfare at the Centre as well as the States to deal with the whole multitude of problems relating to children, reducing the existing multiplicity of authorities to the very minimum and optimising operational coherence and coordination. Voluntary agencies and non-governmental autonomous institutions and their work and worth should be duly recognized and generously funded and facilitated without in any way interfering with their independence.

Sixthly, the Central Advisory Board and similar State Boards should be given statutory status under a separate enactment and their Reports should be placed on the tables of the Houses of Parliament as well as those of the State Legislatures, respectively, alongwith periodic or annual reports of the Standing Committees of Parliament and State Legislatures. The Board or Boards should have their own professional and administrative secretariats.

Seventhly, there should be a statutory system of Child Labour Ombudsman or Child Labour Commission entrusted inter alia with the task of suo motu investigation, resolution of grievances and disputes and giving authoritative directions to employers and others. The Ombudsman system could be progressively expanded on a zonal basis under the apex body which should have one or more members with the rank and status of Secretary to the Government or a High Court Judge. The Child Labour Ombudsman system should submit its Annual Report to the Central Advisory Board, the Government of India, and the Parliamentary Committee. The Ombudsman Reports should also be submitted to the State Legislatures.

Eighthly, there should be National and Zonal Institutes for research and training related to Child Welfare including problems of Child Labour. The National Institute should also submit an Annual Report to the Central Advisory Board, the Central Government and the Parliamentary Committee.

Ninthly, particular attention should be paid to the Child in all its profiles and to Child labour in all its different aspects in the census operations and in collection, analysis evaluation and interpretation of statistical and other data which is in a sad state of neglect today.

Tenthly, the Act of 1986 and other allied and cognate Acts should be kept under constant and careful review because the existing legislation can at best be viewed as transitional in nature and because the letter of the law, such as it is, provides no consolation and can never be a substitute for substantive justice for working children. There are many areas in which the existing legislation has to be enlarged in order to achieve our ultimate goals in the field of child labour. There are many areas in which concurrently with the imposition of statutory prohibitions or the promulgation of regulatory regimes, there should be mandatory provisions for educational and recreational facilities, for social and economic safeguards, and for administrative and legal

arrangement. There are also the "loophole areas" in the existing legislation which call for constant probing and vigilant legislative and other remedies. The unorganised sector is an example in point.

The Task Force is deeply concerned about the informal or unorganised sector which accounts for a vast army of child workers working as domestic servants, helpers or assistants in all kinds of establishments, hawkers, porters, sweepers, and those employed at construction sites engaged in loading and unloading goods or in breaking stones. Child labour employed in the unorganised sector is in a precarious condition. Such employment may often be of a casual nature. The employer establishments might often be small and scattered. The child worker is often ignorant and illiterate. The employers can and do evade the requirements of law and forget the requirements of basic humanity. The child worker in the unorganised sector has little or no access to the enforcement machinery. Records are easy to falsify. What is more, as Maitreya Ghatak points out, "many of these units or industries, in spite of their apparent unorganised status, are highly organised or are direct links in a highly organised system and any exploitation of child labour in those industries or units is actually perpetuated by the direct involvement of basic and organised (or formal) sectors or units." (Child Labour in India, Human Futures, Wint 1981).

Eleventhly, the Task Force recommends a comprehensive code to be known as the Child Code of India, a part of which would be a comprehensive Child Labour Code. The Child Code of India and the Child Labour Code would reflect the vision of ultimate goals as well as long-term and immediate strategies and will provide a total perspective in respect of values, priorities, institutional structures, social and economic realities and functional challenges.

COMPULSORY EDUCATION AS AN ALTERNATIVE

(from "The Child and State in India" - Myron Weiner, 1991)

Indian Policies in Comparative Perspective

There are a great many variations in how governments set about making education compulsory and enforcing child-labour laws. Legislative approaches differ between centralized and decentralized educational systems. There are also a great many variations in how many years of schooling are required, at what ages young people can enter the labour force, the allocation of educational resources, the machinery used to enforce the various laws, and so on. Nonetheless, there are some elements that are widely shared, from which lessons can be extracted. What follows is an enumeration of some of these lessons.

1. Compulsory education laws usually precede child-labour laws, and their enforcement substantially reduces or eliminates child labour. The reason for this is that the enforcement of school laws, though by no means easy, has proven to be less difficult than the enforcement of child-labour laws. Local officials know their community, know who is not attending school, and have clout over poor parents. In contrast, factory inspectors make infrequent rounds and cannot inspect thousands of small shops, and employers, properly warned, are able to take evasive action. Businessmen can readily bribe factory inspectors, while poor parents lack the resources to bribe traunt officers.
2. The decision to make education compulsory rests everywhere on the belief in the efficacy of mass education on the part of those who make, influence, and implement education policy. The notion of efficacy rests on a diverse set of arguments, some of which may be empirically questionable (the notion that mass education will reduce juvenile crime) and morally reprehensible (education as an instrument of ideological control by an authoritarian state), while others may meet with our approval (mass education to facilitate equality of opportunity), but it is essential that some such belief in the value of mass education be firmly held by governing elites. Without such a conviction authorities will not commit the resources necessary to establish a national system of elementary education nor will they make education compulsory.
3. Elementary education is not usually made compulsory until a large proportion of children are already enrolled in schools. Compulsory education is possible when the task is to enroll the last 10 percent to 20 percent of the school-age population, and when the need is largely to deal with the problem of retention. Prior to the introduction of compulsion, governments have usually put in place a national network of schools that are readily accessible to most rural children. Teachers have been trained and blackboards, books, and other supplies have been provided. However, in many low-income countries education has been made compulsory even when school buildings are poorly constructed, teachers inadequately trained, and educational materials of indifferent quality.
4. With the introduction of compulsion into the educational system (and often earlier) has come the establishment of a register of all children in the community. In some countries a system of birth registration preceded the introduction of compulsory schooling. Birth certificates are useful for the enforcement of all age-linked legislation, such as compulsory primary-school attendance, work permits for part-time employment, minimum-age requirements for full-time employment and

marriage, and social security benefits. For an effective system of enforcement, school authorities need to create registers with the names, birth dates, addresses, and the names of guardians of all children within the community, including those who have recently migrated into the community.

5. Compulsory education may be introduced into the entire country or selectively by state and local community. It is desirable, however, to introduce compulsory education for the entire country to facilitate enforcement and so that children who migrate from one community to another will not be handicapped. Politically, too, it is difficult to justify making education compulsory in some areas (usually urban centers) and not in others. Local authorities are also readily influenced by local businessmen, who prefer to keep education voluntary so that they can continue to recruit child labour. For these reasons, the decision to make education compulsory has generally been made either by state or central governments, not by local governments. When the authority to make education compulsory has been left to local governments, as was the case in England prior to 1880, the introduction of compulsory education has been a particularly prolonged process.
6. The successful enforcement of compulsory-education laws has required that attention be given to achieving universal enrollment of all school age children and to ensuring that children are actually in attendance. Retention, not simply enrollment, has been essential. To prevent dropouts governments appoint attendance or truant officers to go to the homes of parents and guardians whose children fail to attend school. Attendance officers may be teachers, appointees of the local school board or the local government, or members of the local police department. They prepare enumeration registers, conduct house-to-house canvasses, check attendance records at schools, and visit the homes of children who have failed to attend class for several days or weeks. These officers employ persuasion to get truants to return to school, but they must be in a position to inform parents that the failure of their children to attend school for other than medical reasons is a violation of law and is subject to penalties. They should be able to go to judicial officers (a local magistrate or an administrative board) to issue notices against parents and guardians whose children have not attended school. When education is compulsory, parents who claim that their children should not be compelled to attend school because their assistance is needed at home, in the fields, or in the labour force are not accommodated.
7. It has been the widespread practice initially to introduce compulsory education for children ages six to ten or twelve, and only later to extend in phases the minimum age at which children are permitted to leave school. Educational planners initially make education compulsory for the lower primary school, then extend it to the upper primary school, and finally to the high school. The phased extension of compulsory education provides school authorities with the necessary lead time to expand the schools to accommodate an increase in numbers. As authorities are faced with the need to expand the high school, attention is then given to the issue of educational screening and vocationalization.
8. The legal minimum age for full-time employment is ordinarily matched to the minimum age at which children are permitted to leave school. The school-leaving age can be raised progressively at the same rate as the minimum age for admission to employment. If the school-leaving age is lower than the age of admission to employment, children are likely illegally to seek employment, and the enforcement of child labour laws is rendered more difficult.

9. In many countries children who complete the minimum years of compulsory schooling are permitted to enter the work force only with a work permit. Proof of age and a medical certificate may also be required but are not sufficient. There are variations among countries as to which authorities can issue work permits-school boards, labour departments, local medical authorities, or the local police. All employers, including managers and owners of small business, restaurants, and cottage industries, are required to ask for a work permit from all young people they employ, and a register of such work permits may be made available to inspectors from the labour department. Failure to maintain such a register or to produce a copy of the work permit (or registration number) can subject employers to penalties.
10. While there are age and schooling requirements for entering any position in the labour force, there are often higher requirements for occupations that are considered physically or psychologically demanding or hazardous. The government may also permit children to engage in part-time paid employment in non-hazardous industries even before they have completed the compulsory years of schooling. But in such instances, work permits may be required and some form of registration by employers may be made mandatory, and punishable if ignored.
11. Inadequate ventilation, poor lighting, unsafe equipment, and toxic chemicals constitute a problem for all members of the labour force, irrespective of age or gender. But young people, by virtue of their inexperience, are often subject to greater risks, and there are some tasks for which they are physically and psychologically unprepared. For this reason, governments prohibit certain kinds of employment for young people or restrict the number of hours they can work, even for those who have completed the minimum years of schooling. But in a low-income country where conditions of employment are often primitive in many enterprises, it is exceedingly difficult for inspectors to impose special requirements where young people are employed. For enforcement reasons, therefore, it is the age and work permit requirements that are the centerpiece of an effective child-labour law, rather than special rules regarding conditions under which young people may work.
12. When education is made compulsory, schooling is provided free by the state. School authorities may also make textbooks free, provide uniforms and deliver midday meals. Inoculations and other health benefits may be provided as well. These measures are intended to improve the health and well-being of children and, by reducing or eliminating the costs for parents, make it less likely that parents will try to remove their children from school. But these benefits are not a substitute for compulsion. Parents are obligated to send their children to school even if these benefits are not provided. Nor do governments compensate parents for the loss of income that they would otherwise have obtained had their children been allowed to work, although some advanced industrial countries do have a system of providing financial payments to enable parents and guardians to adequately provide for their children.
13. Part-time education may be available, but only for those who are beyond the minimum age of compulsory education. Part-time education permits those who attended the minimum years of schooling but failed to complete the standard years of schooling to continue their education; it enables young people to continue their education while they work; and it can provide skills and training not available in the formal education system. But to permit children below the minimum age to

14. Finally, once education is made compulsory, school authorities may take steps to enable and to motivate poor parents to obey the law. Social workers may help working mothers make arrangements for the care of pre-school children, and factories and construction sites may provide creches at the place of employment so that older siblings who must care for younger children can attend school. Girls may be placed in separate classes or even separate schools to accommodate the concerns of socially conservative parents. Above all, school officials must ensure that teachers are present every day, that black boards, books, and other teaching aids are available, and that children are in fact learning reading, writing, and arithmetic. Low-quality education increases repetition and induces parents to withdraw their children from school.



(From Frontline 16 July, 1993)

CHILD LABOUR - HOPE FOR SIVAKASI

An action plan on the anvil

_ R. Vidyasagar

No other issue concerning Sivakasi has been exposed in the media as much as child labour. Though child labour is widely prevalent in other industries, services and agriculture, attention is focused on Sivakasi mainly because of the concentration of child workers in a small area comprising about four blocks, which may be called the "match belt".

Sivakasi is in focus again with a committee constituted by the Tamil Nadu Government coming out with a feasible action plan for the total elimination of child labour in the match belt within five years and the administration responding to it favourably. Consisting of representatives from the State's Departments of Labour and Employment, Social Welfare and Education, the committee worked in collaboration with the United Nations Children's Fund and submitted its report in March 1993.

This is the third official committee to have dealt with the issue of child labour in this belt. The first one led by Harbans Singh, a member of the Revenue Board then, was appointed in 1976 to suggest measures for the eradication of the unfair labour practice of employing children and to explore the possibilities of their working from home with a facility to attend school at least in one shift.

The Harbans Singh Committee found that children constituted nearly 40 to 45 per cent of the total labour employed in the match industry. Girls outnumbered boys, the ratio being three to one. The children were transported over long distances from their villages to the factories and they worked for long hours under unsafe conditions and on piece-rate wages. Their parents' inadequate income forced the children into work. The committee recommended that the problem should be tackled without causing hardship to the families of the child labourers and also without upsetting the industries which have created employment. "The stoppage of child labour is likely to create more problems than it will solve," threatening the existence of the industry and creating extreme hardship for the people. The committee recommended restriction of working hours, increased wages, benefits on a par with other workers and provision for non-formal education. In February 1979, the Tamil Nadu Government decided to implement the recommendations.

However, two years later, a survey conducted in the Sivakasi and Sattur blocks of Kamaraja district by the Area Development Programme Organisation found that 45,000 children were working in the match industry alone and there was no visible improvement in their conditions despite the Harbans Singh recommendations.

Again, owing to mounting pressures through the media and in response to a writ petition filed by a social activist in the Supreme Court, another committee was set up under the chairmanship of Hari Bhasker, Commissioner of Land Reforms then, in March 1983 to study the implementation of the Harbans Singh Committee recommendations and suggest remedies. This committee had a judicial direction to take into consideration the averments made in the writ petition. The Hari Bhasker Committee submitted its report in July 1985, almost two years after it was set up, suggesting measures for the effective implementation of the Harbans Singh recommendations.

In 1986, another writ petition was filed in the Supreme Court, which highlighted the problems faced by the child employees in the match factories. Subsequently, based on an investigation, the court gave orders for protecting the interests of the children.

Notwithstanding these committees, the intervention by the highest court of the country and a new piece of legislation to prohibit and regulate child labour - the Child Labour

Prohibition and Regulation) Act, 1986 - the problem continues and, in fact, has been increasing in step with the rise in match production (at the rate of 4 per cent annually in the 1980s). The 1986 Act prohibits employment of children in the match and fireworks industries.

The present committee was formed to address the continuing plight of the working children in the match belt. Subsequently, a sub-committee was formed to draw up a cost-effective and socially acceptable plan for the total elimination of child labour in a phased manner.

The conclusions and recommendations of the sub-committee are based on field visits and discussions with factory owners, working children, parents, activists of non-governmental organisations and local officials; consultations with experts and senior officials; research on existing documents; and, findings of specially commissioned studies on the socio-economic conditions of the households with working children, the status of primary education in the match belt, and the structure of the match industry vis-a-vis the use of child labour and on the absence of child labour in the match industry in Kerala. A workshop on the enforcement of child labour laws in the match and fireworks industries in Tamil Nadu, attended by factory and labour inspectors, was organised to identify the administrative and legal difficulties in enforcing the laws.

Child labour is more in the cottage sector (about 6,000 units, employing less than 20 workers and hence are outside the ambit of the Factories Act). It is also considerably widespread in the 400 factory sector units. It is noted that a majority of the cottage units are actually benami of the factory sector units. There are a number of trading companies in the match belt, controlling up to 100 cottage sector units. A major share of the surplus generated by these units is cornered by the trading companies.

Child labour was also found in the fireworks industry, though it is not as widespread as in the match units, especially in the interior areas of Kamarajar district. The level of child labour fluctuates according to seasonal demands. At the current level of match production, the number of child workers is estimated to be 80,000. About 90 per cent of the workforce is female, engaged in the most labour-intensive production process. Thus, the problem of child labour in the match industry is also a manifestation of the problem of the girl child.

A sample survey of 65 households spread over five blocks in the Sivakasi area was conducted to assess the contribution of working children to the household economy. It revealed that out of every 100 working children 80 are girls. The average age is between 10 and 14 though many start working from a tender age, playfully "assisting" their mothers and thereby developing the skill. The piece-rate system drives the women and children to work for long hours-up to 12 hours- so that they can earn up to Rs. 15 a day. Depending on the speed, skill and the number of hours put in, earnings range from Rs. 250 to Rs. 400 a month. there is little difference in the earnings of children and adults.

Significantly, in about 60 per cent of the households with working children, one-third to two-thirds of the total household income is contributed by the children. Without the income from children working full time, half of these families would sink below the poverty line.

Taking of cash advances from employers is widespread, which leads to a form of semi-bondage. The employers too offer advances to secure the labour of the children as well as adults.

To improve the economic conditions of the households with working children, the committee has suggested that poverty alleviation schemes such as the Integrated Rural Development Programme can be targeted at child workers' families and new schemes to develop gem polishing and cutting, which would generate considerably higher incomes, can be introduced. As in Pudukottai district, workers' cooperatives for stone quarrying can be introduced in this area. Quarrying is widespread here and the contract workers are paid very low wages. As a long term solution the irrigation potential of this area can be explored to

improve agricultural productivity, and research to improve crops suitable to this region must be undertaken, as most of the working children come from the agriculturally backward villages.

To assess the status of primary education in the match belt, one block with the concentration of match units - match block - and another from where children are transported to the match units - feeder block - were taken up for a study. It covered all the primary schools and all the households in 10 per cent of the villages in both the blocks.

The enrollment of children in the 6-11 age group is moderate but there is a sudden decline at the middle school level in the case of children in the 12-14 age group. Enrolment and retention levels of boys are higher than those of girls both at the primary and secondary levels.

There are more working girls than boys in both age groups. The number of full-time child workers is higher in the feeder block than in the match block. The latter has more part-time workers (after attending schools). The feeder block has a much higher number of children who have never enrolled or dropped out of school and are working full time. In both types of blocks, girls fare worse in terms of enrolment, drop-out rate and full-time work.

There is a sizable number of single and two-teacher schools (40 per cent in the match block and 25 per cent in the feeder block). The quality of primary education is poor. Parents do not want to educate their children, especially girls, beyond the primary level, as they do not attach any value to higher studies. This is also due to the prevalence of unemployment among the educated. Parents prefer their children going to work than getting educated, as there is market for their labour. This is more true of the girl children, the main reason being the need to earn and save for their marriage. As the elimination of child labour has to go hand-in-hand with the strategy to achieve universal primary education, the most important recommendation of the committee is to enforce compulsory primary education in the match and feeder blocks. This will require legislation in keeping with the spirit of the constitutional provision of "free and compulsory education" for every child. Compulsory education could be enforced first in areas where child labour is intensive, with the help of local communities. Nominal fines can be imposed on parents who have not got their children enrolled or have pulled them out of school.

Other recommendations are to strengthen and improve the primary education system, increasing the facilities and the number of teachers, and enhancing the quality of teaching/ learning, and to improve non-formal education for the drop-outs and children who have never enrolled.

There are considerable differences between the factory and cottage sectors of the match industry. While a larger number of children work in the cottage sector, working hours and arrangements are flexible. This is preferred by working mothers. Also, children can go to school and take up part-time work. Though a considerable number of cottage units are benami of the factories, which means less excise duty and regulatory control, the cottage sector has very little working capital and is dependent on trading companies for raw materials and marketing. Some are independent units which market through their own cooperatives or voluntary associations. As the number of cottage units is high and these units do not come under the Factories Act, there has been no effort to enforce the Child labour Act in this sector.

As the factory sector requires full-time work at the site, workers are bussed from villages up to 60 km. away. The factory sector has also diversified into fireworks and printing industries and enjoys a higher profit margin, strong working capital and direct linkages with raw materials and markets.

Child labour has also contributed to labour cost savings by depressing the general wage levels in the area and it has made a considerable proportion of the labour force pliant and docile. Despite these benefits to the industry, the theory that "nimble fingers lead to more production" does not hold good. Given the wide range of the ages of working children, their

productivity on the average is equal to or marginally lower than that of the adults. Yet, child labour is extensively used in the hand made match industry because it is readily available and allows the industry to concentrate by expanding the labour supply. Since children are off the record and need not be provided statutory benefits, the industry gets a direct cost advantage.

An economic analysis of the match industry reveals that withdrawal of child labour would not erode the profitability, growth and competitive edge of the hand made match sector, though there may be a modest increase in labour costs. The excise duty advantages given to the hand made sectors, the long standing ceiling on the production level of the fully mechanised "A" sector (Wimco is the only company under this sector), and the economic disadvantages of the waxed paper match sticks of the semi-mechanised sector ("B") will all contribute to maintaining the existing market dominance (85 per cent) of the hand made match industry. This withdrawal of children from the labour force would not be detrimental to the match industry.

A study commissioned by the committee revealed that the match industry in Kerala has no child labour. Both men and women are engaged in all production operations, with substantially higher wages (compared to Tamil nadu) and an eight hour working day. The industry is running competitively and profitably. The non-use of child labour in Kerala is attributed to high levels of literacy and awareness and strict enforcement of child labour laws. Availability of alternative employment opportunities and higher wage levels in general also have resulted in higher adult wages in the match industry in Kerala. More important, the match units are federated into cooperatives and operate without any intermediaries, while in Tamil nadu most of the cottage units are tied to trading companies.

The industry's intervention in eliminating child labour, according to the committee, can be in the form of evolving different strategies for the fireworks industry and the factory and cottage sectors of the match industry. It recommends strong enforcement of the Child labour Prohibition and Regulation Act and the relevant provisions of the Factories Act and the Arms and Ammunition Act in the fireworks industry and the factory sector of the match industry. It is also suggested that the cottage sector units be encouraged to spread readily through the use of economic tools such as excise duty differentials, sales tax and other concessions, besides enforcing the relevant laws.

Minimum wages should be increased while maintaining the existing piece-rate wage system which is preferred by both employers and workers. The current piece rate also needs to be increased so that the workers can earn the minimum wage within the stipulated eight hour working day instead of the prevalent 10 to 12 hours. A strategy for introducing a time rated wage system in the long run may be explored.

To increase the income levels of the adult workers and eliminate intermediate trading companies, the committee has recommended the setting up of self managed workers' cooperatives with managerial and marketing support. For the success of cooperatives without child labour this sector should be completely exempted from excise duties as an incentive.

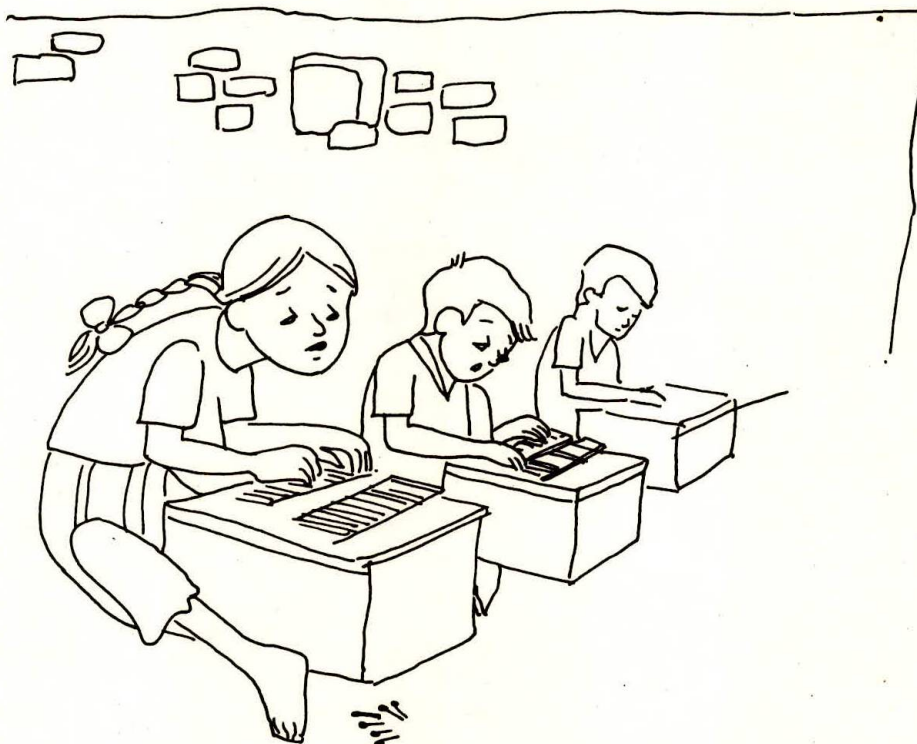
It is found that the number of enforcement staff is inadequate to tackle the problem and they lack proper knowledge of legal formalities. Neither the inspector of factories nor the medical officers were notified under Sector 17 of the 1986 Act and the State Government has not yet framed rules under this Act.

To remedy the problems in enforcement, the committee has suggested that rules under the Act be finalised and notified immediately; the unit owners, not the inspecting officer, be made responsible for proving the age of the child employed; the medical authority under Section 16(2) of the Act be prescribed by the State Government immediately; a special public prosecutor be appointed for prosecuting cases of violations of the Act; and Section 3 of the Act be amended to ensure that what was prohibited was not carried on "in the guise of associating family members". It is also recommended that a special court be set up with

jurisdiction over the entire match belt for a period of five years to try exclusively child labour cases.

The problem of child labour has multiple dimensions and requires an inter-sectoral approach. The recommendations are to be implemented as a package, involving all the departments concerned. Thus, for the overall management of the issue, the committee has recommended that a special board with a five-year tenure be set up to implement the remedial measures in a coordinated way and in phases. Also needed are district level administrative mechanisms, each headed by a special officer in the rank of Assistant Collector, in kamarajar, Chidambaranar and North Arcot districts.

In response to these recommendations, the Tamil nadu Government, in its Budget document, has committed itself to introducing a new piece of legislation providing for compulsory enrolment and retention of children in primary schools, making it legally obligatory for every parent to send the child to school.



CHILD LABOUR AS A POLITICAL ISSUE

(From THE TIMES OF INDIA 27/9/1993)

CHILD LABOUR POLL ISSUE IN U.P

By Debashish Munshi - The Times of India News Service
New Delhi, Sept. 26.

Rising above the cacophony of the racuous election campaigns of Uttar Pradesh's politicians will be a muted but soulstirring voice this time- the united voice of faceless child workers toiling in the many oppressive industrial units of the state.

For the first time ever, groups of childcare workers and non-governmental organisations (NGOs) have got together to make child servitude an election issue. "We intend labelling candidates in every constituency as either pro-child-hood or anti-childhood on the basis of their responses to our questionnaire," says Mr. Kailash Satyarthi, chairperson of the South Asian coalition on Child Servitude (SAACS) which is co-ordinating the movement.

There could not have been a better choice than Uttar Pradesh to launch the electoral experiment in for it is in this state that a majority of the country's five crore child workers languish.

Whether it is the carpet belt of Mirzapur-Bhadohi-Varanasi or the glass factories of Ferozabad, the lock industry of Aligarh or the agricultural fields of Baharaich, lakhs of children are forced to barter their childhood for paltry sums of money.

"No political party has ever come forward to espouse the cause of children who are used as pawns by greedy industrialists to further their business," laments Mr. Satyarthi. He and his fellow workers are, however, determined to force parties and their leaders to take a stand on the issue.

Even before the campaigning for the forthcoming assembly polls can warm up, activists of SAACS and allied organisations have hit the trail, fanning out in towns and villages to inform people about the unholy nexus between politicians and business establishments that exploit child labour.

"Since children do not have voting rights, it is up to the adult electorate to take up their cause," says a childcare worker. "We are writing to 78,000 village heads in U.P. about the inhuman practice of child labour and the mental and physical health hazards faced by the children," he adds.

Once the list of candidates for the polls are finalised, SAACS proposes to approach three to four major candidates in each constituency and seek their responses on issues like full eradication of child servitude and free and compulsory education for all children. Every candidate would be required to give a signed declaration on his position on the subject.

Those who draw financial or political sustenance from business houses employing child labour would find it difficult to sign a public declaration and would, therefore, stand exposed, NGOs feel. Those who do sign would be duty bound to keep their pledge.

"Everything has become a political question these days," says the SAACS chairperson. "We have to question what our policy priorities are." In its effort to make child servitude an electoral issue, SAACS has sought the support of independent trade unions and students' unions in colleges and universities.

Though articles 15(3), 23, 24, 39 (e), 39 (f) and 45 of the Constitution clearly specify that children under 14 should not be employed in hazardous industries, the powers that be have done very little to prevent such employment.

THE CAMPAIGN IN THE CARPET INDUSTRY

The Campaign was launched in India by the Mukti Pratishthan in the second half of 1990.

In February 1991 a National Workshop on Eradication of Child Labour in the Carpet Industry was organised in Delhi. The All India Carpet Manufacturers Association (AICMA) was made the main target of the campaign. The Carpet Export Promotion Council (CEPC) too began to feel the pressure, as exports reportedly dropped due to international reaction in 1990-91.

The Association of Carpet Manufacturers without Child labour was established.

The main achievement of the Campaign has been in bringing manufacturers to the negotiating table and involving them in release and rehabilitation of Child Labour.

A monitoring mechanism for obtaining the "Child Labour Free" label for carpets has been worked out.

This is a noteworthy instance of manufacturers interests being successfully manipulated to make Child Labour unprofitable for them.

The campaign is now being actively pursued by the South Asian Coalition Against Child Servitude. The UP government has now started taking measures against employers of children in the carpet industry.

CHILD LABOUR AND TRADE UNIONS

(From the Times of India 28th November, 1993)

CHILD WORKERS' PLEA TO FORM UNION

By Vinay Pandey - The Times of India News Service
New Delhi, November 27.

The Supreme Court has issued notices to the Centre, the registrar of trade unions and the lieutenant-governor of Delhi on a petition filed by children, who have formed a trade union and want it registered.

Bal Mazdoor Union, comprising about 50 children, most of them below 15 years, was formed on August 24 last year with the help of Butterflies, a registered society working nationwide for the cause of street children and child labourers.

The next day, they approached the registrar, who said the Trade Union Act of 1926 did not allow children below 15 to form trade unions.

In February this year, the union filed a writ petition in the Delhi high court, challenging the decision of the registrar. The high court refused to admit the petition as it found "no merit" in it. In May, they moved the supreme court, which issued notices to the three respondents on November 15.

Pointing out that there were about 18 million child workers in India, the Bal Mazdoor Union's petition stated that as child workers were not organised, there were no proper rules, working hour limits and health facilities. It lamented "the discrimination between the adult labourer and the child labourer".

The union also alleged that the Child Labour (Prohibition and Regulation) Act of 1986 had made the use of child labour lawful, but the provisions of the 1926 act remained, not permitting child workers to organise themselves into trade unions.

Appearing before the two-judge bench of the apex court, comprising Mr. Justice M.M. Punchhi and Mr. Justice B.P.J. Reddy, the Union's counsel, Mr. Soli Sorabjee, argued that the government's refusal to register the children's union was violative of the United Nations convention on the rights of the child, ratified by India last year.

Members of the union work at shops, factories and other establishments. The members also include coolies, servants in tea shops, shoe-shine boys and flower-sellers, while some are rag-pickers. One of the nominated members of the union is the director of Butterflies.

While the CACL hopes that Trade Unions will take an active part in the Campaign, it must be underscored that the ultimate aim of the Campaign is eradication, and not regulation, of Child Labour. While the campaign endorses the importance of trade unions to take up the issue of child labour, it is feared that trade unions of children may legitimise child labour, rather than help to eradicate it.

TU's can help by demanding fair wages for adults to compensate for children's wages lost.

Every child removed from labour can mean a job for an adult, as well as a future for the child.

INTERNATIONAL ACTION AGAINST CHILD LABOUR IN INDIA

While the CACL believes that Child Labour in India is a problem that can and must be taken care of by India alone, it is necessary to take a look at some international initiatives on this issue.

A significant development in this area has been the Child Labour Deterrence Bill introduced by Senator Tom Harkin in the US Senate.

If the bill becomes a law in its present form, it could impose a civic and criminal liability on anyone importing products that have been produced utilising child labour.

The bill seeks to impose a ban on the import into the US of any product fabricated, assembled, processed, mined, quarried or otherwise extracted, in part or whole, with the use of child labour.

Senator Harkin claims that "this legislation is not about imposing our standards on the developing world. It's about preventing those manufacturers in the developing world who exploit child labour from imposing their standards on the US".

Carpet manufacturers have already reacted to these measures with a number of self-regulatory measures. Though these can only remain at a symptomatic and superficial level they may fulfill some immediate needs of children in the industry.

However, reactions to the Bill have been marked by scepticism.

Labour activists in Bangladesh have condemned the Bill. While supporting moves towards gradual eradication of child labour, they fear that the sudden loss of jobs of girls in the garment industry as a result of a US ban could result in their being forced into hazardous industries or prostitution.

David Ould of the London-based Anti-Slavery International has warned that such a law could be used to ban anything. Ould sees it as part of increasing protectionist policies in the US and warns that the Bill could harm those it means to help.

In India too, the Bill is viewed with some suspicion. The CACL does not support legislative measures by other countries against child labour in India, and is apprehensive about the motives behind measures like the Harkin Bill.

An active consumer movement has taken up the issue in Germany and other EEC countries. The South Asian Coalition on Child Servitude, jointly with the Indo-German Export Programme Project, has already worked out a monitoring system for "Child Labour Free" certification, and the "Smiling Carpet" label is to be launched in December '93.

An international working group on child labour has been created on the initiative of Defence of Children International, Netherlands, and the International Society for prevention of Child Abuse and Neglect. The plan includes an in-dept analysis of child labour in India. Network of international NGO's is proposed.

UNICEF INDIA'S mid-decade goal is "The elimination of child labour in hazardous and export-oriented industries, and in prostitution, and elimination of bonded Child Labour by end 1995".



THE CAMPAIGN AGAINST CHILD LABOUR

POLICY AND PERSPECTIVES

Definition :

Child labour is that form of work a child is engaged in which is detrimental to the growth and development of the child. Family labour which interferes with a child's education, recreation and physical, mental, or moral health would also be considered as child labour.

When the business of wage earning or participation in the workforce in any manner is harmful to the growth of a child, this can be called child labour.

Causes : A Socio-economic perspective :

Child labour is inherent in the cycle of poverty, unemployment, under-employment and low wages of adults, brought about by inequitable distribution of resources, a centralised and lopsided economy, and the backward state of agriculture.

Other causes include -

- dominance of a particular community.
- children constituting a cheap and compliant workforce.
- emotional trauma causing children to run away from home.
- a socio-political environment that condones child labour.
- poor educational quality and infrastructure.
- child labour is the effect as well as the cause of illiteracy and ignorance.

While the issue is linked with over-all social change, children cannot wait. The CACL, while aiming at the ultimate eradication of child labour, demands, as interim measures, the effective ban on child labour in hazardous industries. The campaign will focus on health care and education for children working in non-hazardous industries.

The CACL strongly opposes the Structural Adjustment Programme dictated by the International Monetary Fund and the World Bank. The resultant cuts in public expenditure in key areas like education, health and the public distribution system can only worsen the situation for working children. The displacement of small farmers and closure of small-scale units resulting from the new economic policy will cause further adult unemployment, one of the main causes of child labour.

Strategy :

The CACL will raise the issue in national consciousness. The campaign will work towards presenting a realistic picture of the situation and dispell myths and misinterpretations about the reasons for the continued prevalence of child labour. The campaign will be built up through local, grass-root organisations, co-ordinating and strengthening on-going efforts at tackling the problem at the local level.

The campaign will address the following target groups :

- **Employers** : Initially, specific industries that employ large numbers of children will be targeted. In co-ordination with local NGO's CACL would look at and promote alternatives relevant to the specific industry, for example, employment of adults, or mechanisation to replace child labour.
- **Consumers** : Publicity campaigns to raise consumer consciousness, and organising boycotts where relevant will be part of CACL's strategy.
- **Trade Unions** : The support of trade unions will be sought on two fronts : to obtain better working conditions for children as an interim measure, and to ensure employment and minimum wages for adults as a long term measure towards removing one of the causes of child labour.
- **Government** : CACL will call for stricter implementation of the 1986 ACT, including immediate removal of children from hazardous work, as well as state sponsored rehabilitation programmes for former child labourers, with NGO support. The campaign will also call for amendments to the Act, according to the recommendations of the Task Force, and a time-bound legislative action plan towards eradication of child labour.
- **Parents of working children** : while remaining sensitive to the compulsions that make parents send their children to work, the CACL will emphasise that children have rights separate from the rights of the family, and that sending children to work cannot be looked on as an alternative. The campaign will attempt to sensitise parents and make them willing partners.

While **free and compulsory primary education** is seen as a desirable goal, the campaign will demand that education is made available for those children who are now in employment, through a more flexible delivery system. The CACL will also support measures to make education more relevant and more stimulating for the children of poor families.

The child's point of view : The campaign recognises the right of children to be involved in decisions pertaining to their lives and future, and will support all efforts to help working children understand their situation and evaluate alternatives available to them.

The problem is not an isolated one, and the solution cannot be an isolated one either. The CACL will support all movements towards a more equitable society, sustainable models of development, empowerment of women and weaker sections of society, and self determination for India in economic and political matters. The campaign does not support legislative measures in other countries against child labours in India.

The CACL invites concerned NGO's, Trade Unions, peasant organisations, women's groups, mass organisations, networks and federations, professionals, media persons, students, and government departments, to join in.

CACL : An update on some activities

- October 19 and 20, 1992 : Constituent groups meeting - Bombay.
- November 14, 1992 : Campaign launched at Bombay by Justice P.N. Bhagawati; simultaneously launched by several participating NGO's at local functions.
- February 13th, 1993 : Campaign launched in Pune with a 'March against Child Labour' and a press conference.
- February 1-15, 1993 : Participation in a march organised by the South Asian Coalition Against Child Servitude, through high child labour density areas.
- March 13 and 14, 1993 : Local Planning meeting at Bhubaneshwar.
- March 15-19 : march against child labour in Tamil nadu (organised by the Peace Trust in Association with other NGO's)
- March 26-27 : Extended co-ordination committee meeting, Pune.
- April 1993 : Seminar on child labour at Trichy, Tamilnadu.
- April 28, 1993 : Allahabad - meeting of NGO's from UP to initiate CACL programmes.
- May 8,9 : Workshop on child labour at Hyderabad.
- May 27, 1993 : Campaign launched in Nagpur.
- June-July 1993 : CACL fact finding team visited Vani, in Yeotmal, Maharashtra, to investigate the death of Shiva, an 8-year-old child working in the house of Ganesh Rajput, a snack vendor.
- July 24-25, 1993 : 2-day state level workshop on child labour at Pune, Maharashtra.
- July 27, 1993 : CACL local meeting, Baroda.
- September 1993 : CACL meeting with Maharashtra Labour Minister Shri Shravan Parate.
- September 1993 : CACL-SAACS morcha to Tehsil office, Ahmedpur, Maharashtra.
- October 11-14, 1993 : Public Relations Workshop for CACL participants, Bombay.
- October 1993 : Labour minister, Government of Orissa, agrees to sponsor a State level workshop on child labour.
- November 14, 1993 : Nation-wide programmes highlighting the plight of children in the fire cracker industry, including poster campaigns, post-card campaigns, boycott of crackers, distribution of hand bills, advertisements and articles in the press.
- November 15 : Bhubaneshwar - Seminar on rights of working children.
- November 28, 1993 : Seminar on Child Labour at Vijaywada, attended by a large number of Trade Union activists.
- December 10, 1993 : Raipur meeting on NGO's from M.P.
- December 14-15, 1993 : CACL constituents meeting at Bangalore, attended by representatives of over 100 participating organisations.