



# **Ban on Employment of Children in Domestic Sector, Dhabas and Eateries**

**National Social Audit | October 2009 to March 2010**



Campaign Against Child Labour (CACL)



Campaign Against  
Child Trafficking



# **Ban on Employment of Children in Domestic Sector, Dhabas and Eateries**

**National Social Audit | October 2009 to March 2010**



## Foreword

The 61st year of the republic of India still witnesses the stark reality of economic exploitation of children. In spite of the promises and the commitments expressed in the Constitution of India we have not been able to protect our children from this cruel reality. The legislative measures which were initiated from the 19th century has until now prohibited employment of children only in the so called Hazardous sectors that too until the age of 14 years. This prohibition too is still far from being implemented. Employment of children in hotel and domestic sectors were included in the list of hazardous employment and thus prohibited w.e.f. 10th October 2006. Campaign Against Child Labour (CACL) and Campaign Against Child Trafficking (CACT) have been working towards such legislative reforms and implementation of existing laws for long and the social audit is an important step in this direction.

While highlighting the sorry state of implementation of legislative measures relating to child labour, this report also points out that legislation cannot be implemented without a strong political will. In addition it brings to light the fact that legislation, though necessary, in itself does not change the social reality. The social reality is often controlled by traditions, prejudices, cultural practices and of course self interests of a lot of people. Only a socially conscious and aware society and a truly committed state can ensure the proper implementation of progressive legislations.

The findings in the report and the depositions of the children at the public hearing should put us and everyone else to shame. In spite of prohibition of employment, thousands of children continue to eke out an existence and also support their families through their toil in households and hotels, dhabas and eateries. They are beaten, tortured, humiliated and sometimes even murdered. It is actually the shame of the growing India, fast moving into an emerging economy.

The prohibition of child labour in these sectors and all other sectors must be fully implemented and prohibition needs to be further extended until the age of 18. This report and the public hearing is a contribution towards this goal. Hopefully concerned departments of the government will seriously look into the findings of the report and work for proper implementation of the ban on child labour in domestic and dhaba sectors.

**Arvind Kejriwal**



## Acknowledgement

The National Social Audit of ban on employment of children under 14 years of age was undertaken by the Campaign against Child Labour (CACL) and the Campaign against Child Trafficking (CACT) as an exercise in monitoring state performance and holding the state accountable. CACL is a national level campaign committed to the eradication of child labour through building public opinion, investigation of abuse/exploitation, advocacy, lobbying and monitoring of national and international developments. CACT too works in the same direction addressing trafficking in children holistically and in all its forms so as to work towards building a world where humanity is founded upon freedom, dignity and happiness of children and not upon their exploitation and abuse; where children are not seen as commodities to be bought and sold in the open market. All the members of CACL and CACT have been the backbone of this audit.

There is no doubt that domestic work and hotels/roadside eateries employ large numbers of children. Many of them are trafficked and many others migrate in search of a better life, leaving behind their childhood forever. The demand for children in these sectors is indeed very high while action against the employers is almost negligible. As with all laws, implementation of the ban on employment of children in the said two sectors has also been visibly very low. Despite a general awareness amongst all actors in the society about the law and knowledge about child labour in the said sectors, it had become important for CACL and CACT to present a mirror image of the reality, based on facts and figures collected from various sources as also a sample highway survey. There is almost always a need to prove one's point before demanding action and drawing attention to the flaws that continue to allow employment of children in the said sectors. The social audit has been successful in this regard and we hope to use the findings to lobby for necessary change.

This social audit would not have been possible without the support received from several individuals, organizations, government agencies and media. Often such audits are criticized for presenting only side of the coin and having little or no scope for the government actors to put forth their point of view. With the limited resources in hand, we tried our best to enlist participation of various government departments and agencies during the public hearing and hear them out as well. We are indeed grateful to Delhi's Labour Department, the Department of Women and Child Development and the Child Welfare Committees, the Police, the Delhi Commission for Protection of Child Rights, the National Commission for Protection of Child Rights, international agencies such as UNICEF and Save the Children, students of Sardar Patel Vidyalaya, Lodhi Road and The Heritage School, Vasant Kunj and all our NGO friends for their support and participation at the public hearing. Their presence was a source of great encouragement for children who deposed at the hearing and raised their voice and concerns.

Our special thanks to the Jury, Dr. Syeda Hameed, Mr. R.K. Raghavan, Ms. Vimla Ramchandran, Mr. Arvind Kejriwal and Advocate Ashok Arora, for having taken out their valuable time for a cause that is a non-serious issue and an acceptable way of life for most people in the country.

We thank the media that has consistently covered the social audit process and kept the issue alive in a sensitive manner, and look forward to their support in future too. The creative artists and volunteers who put things together for this event truly deserve special appreciation.

The most important part of any endeavour is the financial assistance that actually makes it possible. We thank terre des homes (Germany), NEG FIRE, Christian Aid and Centre for Education and Communication (CEC) for having faith in us, for providing the much needed financial support and also for being pro-active partners in this venture.

**CACL**  
**Campaign against Child Labour**

**CACT**  
**Campaign Against Child Trafficking**







**C**hild labour is both traditionally accepted and widely prevalent in India. That India is home to the highest number of child labourers in the world<sup>1</sup> is known to all. Unfortunately, accurate data on child labour has always remained a big challenge. This is particularly true of children engaged in the less visible or rather “culturally more acceptable” sectors such as domestic work and dhabas and eateries, even though these are the sectors with significant concentration of child labour evident to the naked eye.

Despite efforts by government and civil society actors to combat child labour, the numbers only seem to be increasing. The problem seems to be getting even more complex with children being trafficked into all forms of labour, particularly the more unorganized forms such as domestic work and roadside dhabas and eateries.

## History of child labour legislation in India and the ban on employment of children in domestic work and hospitality sector

The history of child labour legislation in India dates as back to 1881 when minimum age of employment in factories was fixed at 7 years (1881 – The Factories Act). Since then it has gone through various stages of changes of increasing the age first to 9 years, then to 12 years and subsequently to 14 years. Meanwhile, employment of children under certain ages was also prohibited in specific occupations like mining, Indian ports and others. The 1933 Children (Pledging of Labour) Act prohibited pledging of children by parents or guardians in lieu of advances.

<sup>1</sup> [http://www.unicef.org/infobycountry/india\\_background.html](http://www.unicef.org/infobycountry/india_background.html)  
[http://ncpcr.gov.in/Reports/Abolition\\_of\\_Child\\_Labour\\_in\\_India\\_Strategies\\_for\\_11th\\_Five\\_Year\\_Plan\\_Executive\\_Summary\\_to\\_Planning\\_Commission.pdf](http://ncpcr.gov.in/Reports/Abolition_of_Child_Labour_in_India_Strategies_for_11th_Five_Year_Plan_Executive_Summary_to_Planning_Commission.pdf)



After independence the Factories Act 1948 raised the minimum age of employment to 14 years. Further in 1950 the Constitution of India provided that no child below the age of 14 shall be employed to work in any factory or mine or engaged in a hazardous employment. This promise, which is yet to be fulfilled, has been further operationalised through various amendments to the labour legislations and finally through the Child Labour (Prohibition and Regulation) Act 1986 (CLPRA). The CLPRA divided occupations and processes into hazardous and non-hazardous by looking at the nature and condition of the processes rather than the situation of the children. It prohibited employment of children below 14 years in the processes and occupations listed as hazardous and provided for regulation of employment of children into other processes.

In 1986 at the time of passing of the legislation, the schedule of occupations and processes was as follows:

#### **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 the close proximity to or between the railway line;
- 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.

This flagship legislation of Government of India came under criticism from many quarters ever since its enactment. It was often qualified as a legislation which legalized the employment of children in many sectors. It was also criticized for lack of implementation machinery and weak punishments and other loopholes.

With sharpening awareness on children's rights subsequent to the adoption of UNCRC and the ratification of the same by the Government of India in 1992, a new dimension was added to the criticism of the Act. It was argued that whether a process or occupation is hazardous or non-hazardous to a child needs to be viewed from the physical, emotional and psychological traits of the child rather than on the basis of the nature of activities involved in an occupation or in a process. Something which probably was not hazardous for adults could be hazardous for children because of their young age and vulnerability.

All the above criticisms were also accompanied with demands for new legislations, amendments and inclusion of more and more sectors into the list of hazardous occupations and processes. Groups such as Campaign Against Child Labour, Bandhua Mukti Morcha, South Asian Coalition against Child Servitude and Bachpan Bachao Andolan and many others spearheaded the campaign. In 2003-04 CACL had organized a Public Hearing in Mysore on Girl Child Labour in the domestic sector and submitted its report to the Government of India to bring the subject in focus. There were other NGOs, support agencies and professional groups such

as lawyers' groups who advocated such changes. Gradually Government of India started expanding the list of hazardous occupations and processes included in the schedule in CLPRA and presently employment of children in about 16 occupations and 65 processes is prohibited. Inclusion of employment of children in hospitality and domestic sector in 2006 has been one such amendment to the schedule.

Campaign Against Child Labour (CACL) focused on eradication of child labour from all sectors through legal prohibition and social prevention of entry of children into labour. While the latter had to be achieved through free compulsory education, the former was to be realized through gradual legislative reforms. It focused on specific sectors of employment now and then. From 2002 onwards CACL focused on employment of children in hotel sector and domestic sector. A series of activities focussing on the demand for inclusion of these sectors were taken up. Similar demands were also raised by Bachpan Bachao Andolan and other NGOs and Civil Society organizations. The memorandum submitted to the Government of India by CACL on 23.07.02 demanded inclusion of child labour in the hotel industry and domestic sector in the list of hazardous occupations and processes under the CLPRA 1986 and thus prohibit the employment of children in these sectors.

Thus the notification of the Government of India on 10th of October 2006 was both a response to the vociferous demands from the civil society and its own commitment to gradually do away with child labour. This was a very welcome step.





# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1211]

नई दिल्ली, मंगलवार, अक्टूबर 10, 2006/आश्विन 18, 1928

No. 1211]

NEW DELHI, TUESDAY, OCTOBER 10, 2006/ASVINA 18, 1928

2

THE GAZETTE OF INDIA: EXTRAORDINARY

[PART I]

MINISTRY OF LABOUR AND EMPLOYMENT

(Child Labour Section)

NOTIFICATION

New Delhi, the 10th July, 2006

S.O. 1029(E).—In exercise of the powers conferred by Section 4 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Central Government hereby gives three months notice of its intention to add the following occupations in the Schedule to the said Act, namely :—

In the Schedule to the said Act, in Part A, under the heading "Occupations", after item (13) and the entry relating thereto, the following items and entries shall be added, namely :—

"(14) Employment of children as domestic workers or servants;

(15) Employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centres."

[F. No. S-27012/3/97-CL]

S. K. SRIVASTAVA, Jt. Secy.

Footnote : The first notification to amend the Schedule was issued *vide* number S.O. 61, dated the 23rd December, 1986 and subsequently the same was amended *vide* number :—

(1) S.O. 404(E), dated the 5th June, 1989

(2) S.O. 263(E), dated the 29th March, 1994

(3) S.O. 36(E), dated the 27th January, 1999

and last amended *vide* notification number S.O. 293(E), dated the 10th May, 2001.

## A need to monitor the implementation of this ban: Case for a Social Audit

The notification was received with much enthusiasm by various alliances, movements and child rights groups. The emphasis now was to check the implementation of this significant notification.

Anyone found employing children as domestic helps or in dhabas and eateries is liable to prosecution as per the notification banning employment of children under 14 as domestic help and in hospitality sector, which came into effect on 10th October 2006.

Six months after this notification, a Ministry of Labour Press Release dated 09.05.07 reported 2,229 violations of the notification. 38,818 inspections were carried out by some State Governments from whom reports were received and 211 prosecutions were filed

Source: Assessing Child Domestic Labour in India, UNICEF, [http://www.unicef.org/india/child\\_protection\\_2053.htm](http://www.unicef.org/india/child_protection_2053.htm), as on 14 March 2010.

In the third year of the enforcement of this ban if we look into the nature of enforcement of this legal instrument, we can locate many news of rescue of child labourers from these sectors. But at the same time we also find that there is no concrete mapping and identification of child labourers in these sectors, very poor rate of success in rehabilitation of the rescued children and in prosecution of the accused employers. Experiences and observations from the different fronts show still a high number of child labourers visible in these two sectors, poor functioning of Child Welfare Committees or Childline in different states in rehabilitating the rescued children and reluctant nature of labour departments and police in primary enforcement of the law. In the mean time in 2008 the Ministry of Labour, Government of India came out with a Protocol/Guideline on Prevention, Rescue and Rehabilitation of Trafficked and Migrant Child Labour, which is still to be found as a draft on its website, inviting comments. Maharashtra was the first state to frame such a Protocol, even before the Central Ministry drafted one. Although the Annual Report of the said Ministry for 2008-09 suggests that this Protocol has been issued as a guideline to be followed by the State Governments, there is no further news on the states using it or even considering using it.

Ever since the ban, members of the Campaign Against Child Labour (CACL), Campaign against Child Trafficking (CACT) and such other networks and campaigns have been

working in various states in collaboration with the respective labour department for dissemination of information about the ban and towards ensuring prosecution of those who employ children. Activities such as raids of roadside restaurants, dhabas and eateries, prosecution of employers, releasing of children and restoring them back to their villages have been taken up. In the course of all this it has also been highlighted that children are being brought into cities through trafficking and other unfair means for purposes of employment for households, hotels and other eateries. The collaboration between anti-child labour groups and the labour departments has functioned in some locations but not in others. Even where good coordination has existed between the labour department, the police and the activists, the process of prosecution and rehabilitation of children has been extremely problematic due to various factors. Children who are sent back to their families sometimes return to the city or end up in other forms of exploitative situation as the families themselves are not enabled to look after such children. There have been problems about the care and protection of rescued children during the period of transit. Lack of awareness on the legislation within the enforcing authorities, particularly the police, has also been a stumbling block. The age factor itself is difficult. Often employers of small children who look 11 and 12 are found armed with date of birth certificates showing the ages to be above 14. While the CLPRA has provided for prohibition of employment of children less than 14 years of age, the Juvenile Justice Act has provided for prosecuting employers who make children under 18 years work in hazardous sectors and in slavery like conditions.

All these efforts, successes and issues have been shared and discussed during the 3 years since the ban. Yet, the more we look at the situation the farther we seem from the goals of ensuring protection for all children in these two sectors and a complete enforcement of the ban.

It is against this backdrop that on the 3rd anniversary of the notification of the Government of India banning child labour in domestic sector, dhabas and eateries, CACL and CACT decided to initiate the social audit of the implementation of the notification.

Campaign Against Child Labour (CACL) has evidently taken the prime role in advocacy and social mobilization for bringing this legal ban, in which it worked probing into the situations of child rights violations during the years of 2001 to 2003 in these two sectors. Campaign Against Child Trafficking (CACT) too has been regularly highlighting the

cases of large number of children being regularly trafficked for employment in these two sectors. Both therefore feel responsible to monitor the implementation of this legal ban.

## About the Social Audit

The social audit aimed at reflecting questions such as what has the ban resulted in, what steps have been taken to make it effective, is there any visible change in the attitudes of the people in important positions and also in general towards the implementation of such social legislations? The idea was to present a picture of the ground reality through various means and reflect upon the future course of action in this context.

The Social Audit was launched on 9th October 2009, the third Anniversary of the Notification banning employment of children under 14 years of age in domestic sector and dhabas and eateries.

### The Process

**The Social Audit was undertaken at two levels:**

**At the State level,** the respective State Chapters or a member organization of the two campaigns carried out the following activities:

1. Intervention and data collection through the Right to Information Act, 2005 pertaining to the implementation of the 10th Oct. 2006 Notification.
2. Conducting Highway Sample Surveys on National and State Highways. This involved capturing a glimpse of the ground reality on camera as well as through chats with little boys and girls found serving at dhabas, tea stalls and other such roadside eateries.
3. Collecting information on employment of child labourers who are employed in the domestic sector in and around VIP areas and in various residential colonies primarily through observation or with the help of service providers catering to these colonies. This also included collecting data from secondary sources such as research studies and documentation available with NGOs and other civil society agencies, particularly media.

The number of States that collected data and information for the Social Audit was 12, depending on availability of partners and their time and keenness.

**At the National Level,** a national launch of the social audit and culmination of the audit in the form of a National Public Hearing in the National Capital Delhi was the primary focus. Preparatory activities in the run up to the Public Hearing have included:

1. Compilation of all the data collected by the 12 State Chapters of the two campaigns and preparing a National Social Audit Report for sharing during the Public Hearing and thereafter.
2. Collation of existing information from secondary sources such as research and studies available, media reports, articles and relevant documents on the internet.
3. National Consultation with CACL/CACT members to finalize the report. Participation of approximately 50 adult participants from 12 states was envisaged.
4. A parallel national consultation with approximately 50 children from 12 states who were at some point of time working in the said two sectors. 10 out these 50 children were to be prepared through this parallel consultation for deposition at the National Public Hearing. It was decided that the findings of the national social audit would be shared with children also during this consultation and their final inputs would be added to the report before using it for future advocacy.
5. Preparation and Printing of the Social Audit Report and Brochures for the Public Hearing.
6. Organizing the National Public Hearing in Delhi and presentation of the Social Audit Report.
7. Enlisting participation of five hundred participants including 50 child labourers/rescued child labourers, students from various schools of Delhi, 50 campaign network members, about 30 child rights activists, media persons, government officials etc. for the public hearing.
8. Finally, sharing and submission of Social Audit Report with concerned authorities, statutory bodies such as the National Commission for Protection of Children's Rights and the State Commissions etc. after inclusion of inputs from children and adults as well as the verdict of the jury for the National Public Hearing.

### Scope of the Social Audit and Limitations

As mentioned earlier, the scope of this social audit has been limited to children engaged in the domestic sector and dhabas and eateries although the 10th October 2006 notification brought various recreation centres within the ambit of the ban.

Knowing that it would be difficult to carry out any systematic primary research in both the sectors covered by the audit, due care was taken to ensure safety and security of the children met with. At the very outset a policy decision was taken that if sought, every possible assistance would be provided to children met in the course of the audit, keeping in mind the principle of best interest of the child.

The information collected through the highway sample surveys has been very basic, primarily pointing to the fact that children continue to be employed in dhabas and eateries despite a ban. Details about children working in such places could not be collected for various reasons. These include:

- a) To ensure safety of the child it was important to carry out the survey in a casual manner, without leaving scope for suspicion in the minds of the employers. It was always kept in mind that any suspicion could add to the child's vulnerability and could also lead to abuse by the employer for revealing the working conditions.
- b) To ensure safety of the team conducting the survey was equally crucial as there was danger of the employers getting cautious and foiling the survey plans or even attacking the team. In fact there were instances when the employers became suspicious of the survey team in Delhi and the team had to leave immediately before any untoward incident took place.

Survey of children employed as domestic helps has not been possible. In the course of the audit it was realized that getting information from child domestic workers could put them at various risks from their employers. While approaching service providers in various housing colonies had been initially decided upon as a technique for information collection, it was realized that the task was not as simple and easy as had been envisaged and also involved risks. A service provider could well inform the employer or be a trafficker or supplier of minor domestic helps. However, information collected through RTI on both these sectors speaks volumes.

A recent survey carried out by Centre for Education and Communication (CEC), a Delhi based NGO and member of CACL is one such survey relied upon heavily for throwing light on the situation in Delhi. Findings from another such survey in West Bengal by an NGO Right Track is also telling. Other such studies and articles have also been used to capture the situation in the domestic sector.

In addition, as mentioned earlier, an investigation into VIP areas was also carried out by CACL members in West Bengal

to expose how little our policy makers and administrators care. In Delhi a similar exercise was undertaken with the help of a news channel, NewsX.

This social audit has relied heavily on media support in terms of using media reports and stories as part of secondary data and enlisting media cooperation throughout the process. Channel NewsX had shown particular interest in the issue and had also launched a campaign of its own during the launch of the social audit seeking public support by way of signing their online petition. They also helped capture the ground reality through their camera and aired series of news on the children in domestic sector and dhabas and eateries, focusing on VIP areas. The idea was to capture the political will or the lack of it in dealing with the issue and to show how policy makers themselves flout the rules and regulations.

### STATES COVERED

1. Andhra Pradesh
2. Bihar
3. Delhi
4. Goa
5. Gujarat
6. Jharkhand
7. Karnataka
8. Madhya Pradesh
9. Maharashtra
10. Orissa
11. Uttar Pradesh
12. West Bengal
13. Tamil Nadu



## HIGHWAYS COVERED

<b>Andhra Pradesh</b>	<b>5</b>	NH 5 Tatapudi to Tadepalli
		NH 5 Tada Mandal to Kavali Mandal (160 km)
		State Highway Devarapalli to Tallda (55 km)
		VSKP Highway Penduruthi to VZM (60 km)
		Hyderabad-Vijaywada Highway Chotuppal Mandal to Narketpally Mandal) (40 km)
		Hyderabad to Aleir, 202 National Highway (75 km)
		Bhongir to Gajwel, link road between 202 National Highway and Rajeevgandhi Highway (45 km)
<b>Delhi</b>	<b>2</b>	GT Karnal Road. Delhi to Panipat, 70 km, 7th September 2009
		Delhi Haridwar Road, Delhi to Meerut, Uttar Pradesh, 70 km, 30th August 2009
<b>Jharkhand</b>	<b>1</b>	Information Not Available
<b>Karnataka</b>	<b>2</b>	Sandur to Thorangal-Hospet
		Chitradurga To Hospet-NH-13
<b>Madhya Pradesh</b>	<b>2</b>	NH - 12 Jaipur to Jabalpur Highway (Hoshangabad Road)
		NH - 7 Jabalpur to Nagpur Highway
<b>Maharashtra</b>	<b>20</b>	Highway No. 4 Pune Mumbai Old Highway
		Highway No. 60 Pune Ahmadnagar Highway
		Highway No. 4 Pune Satara Road
		Highway No. 50 Pune Nasik Road
		Highway No. 9 Pune Solapur Road
		Highway No.9 Solapur to Mohol
		Highway No. 9 Mohol to Tembhurni
		State High Way 17 Sangola to Jat
		Kurduwadi to Barshi
		Kurduwadi to Karmala
		Latur to Ambejogai
		Killari to Latur
		Tuljapur to Yedshi
		Amba Karkhana to Beed
		Turori to Narangwadi
		Chorasta to Ashtamod
		Jamb to Shirur Tajband
		Sangavi to Sonkhed
		Ahmedabad Highway - Godbandhar to Virar to Thane
		Mulund to Thane and Thane to Borivali
<b>Uttar Pradesh</b>	<b>3</b>	Varanasi, Mirzapur, Allahbad Road
		Sitapur To Lucknow
		Jaunpur
<b>West Bengal</b>	<b>2</b>	VIP Area behind WRLIC lane, Thana Hare Street, Kilkata, 3rd December 2009
		Mumbai Highway, Kona express way junction to Malancha Varia - 100 kilometer two way and more than 150 kilometer from Dankuni to Arambag and back



## Magnitude and Extent of the Problem

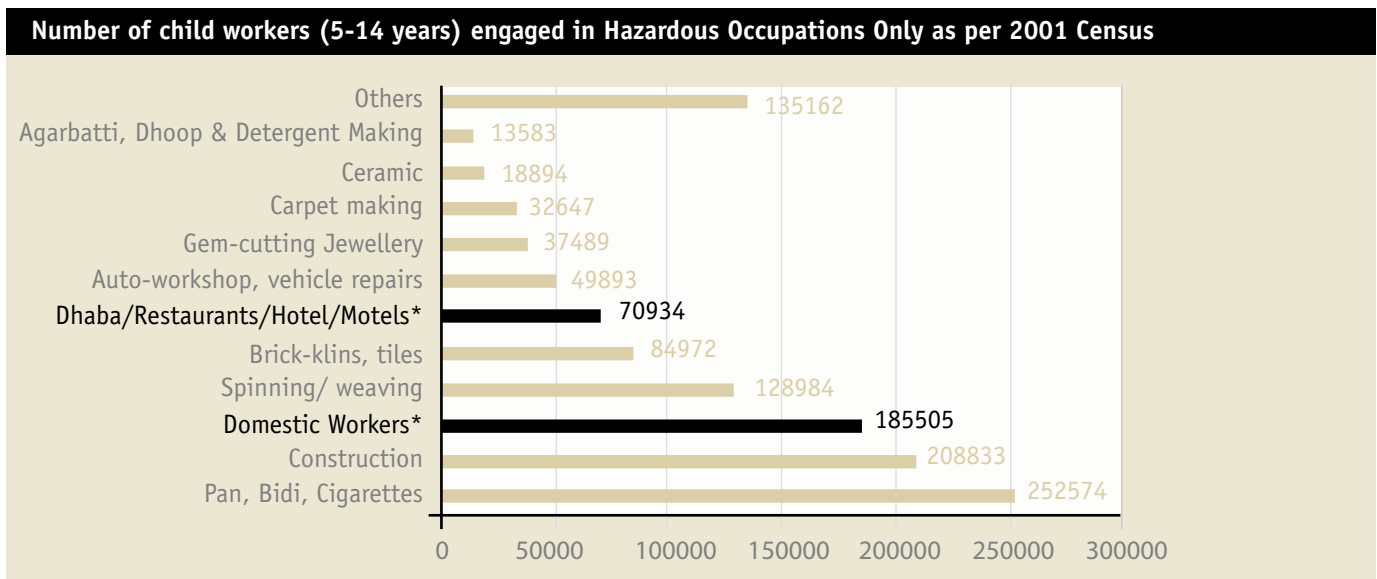
The two main sources of official information on child labour in India are the National Sample Survey Organization (NSSO) and the Census of India. Both provide different estimates on the extent and magnitude of the problem. While the Census shows an increase in the child labour population from 11.3 million in 1991 to 12.6 million in 2001, according to the NSSO, there has been a substantial decline in the population of working children, down from 13.3 million in 1993-94 to 8.6 million in 2004-05. Of late the Office of the Registrar General and Census Commissioner of India has started enumerating child labour by occupation. The latest Census inputs suggest that 185,505 (1.86 lakh) children below the age of 14 are engaged as child domestic workers, while the figure for those working in dhabas/restaurants/hotels/motels/eateries is 70,934. This brings the number to altogether 256,439 (2.56 lakh) children in both domestic sector and dhabas and eateries.

Non-official sources estimate that around 20 million children are employed in the two newly banned sectors<sup>2</sup>.

A glimpse of the problem has been captured through RTI and the Highway Sample Surveys carried out in the course of this

National Social Audit. The objective was basically to highlight that the problem persists despite ban on employment of children in the domestic sector and dhabas/eateries/hotels and to reveal how this ban was being implemented, if at all. The emphasis was not on collecting statistical evidence or on any in-depth social research.

Number of child workers (5-14 years) engaged in Hazardous Occupations as per 2001 Census		
1	Pan, Bidi & Cigarettes	252574
2	Construction	208833
3	Domestic workers*	185505
4	Spinning/ weaving	128984
5	Brick-kilns, tiles	84972
6	Dhabas/ Restaurants/ Hotels/ Motels*	70934
7	Auto-workshop, vehicle repairs	49893
8	Gem-cutting, Jewellery	37489
9	Carpet-making	32647
10	Ceramic	18894
11	Agarbati, Dhoop & Detergent making	13583
12	Others	135162
<b>Total</b>		<b>1219470</b>



\*Ministry has recently issued notification to include children working as domestic workers and in dhabas/restaurants, hotels, etc. in the list of hazardous occupations w.e.f. 10th October 2006.

Source: Working Group Report on Child Labour for the Eleventh Five Year Plan, Available at [http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11\\_rpchlab.pdf](http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_rpchlab.pdf)

## The RTI Response

RTIs were filed to collect the following information:

- number of children rescued from the two sectors;
- numbers rehabilitated;
- number of employers prosecuted;
- number of cases where penalties were imposed on the employers;
- number of children and their families benefitted from the Supreme Court judgement allowing compensation of Rs. 20,000/- for the rescued child and Rs. 5,000/- for the family or job in lieu thereof;
- information relating to the process of rescue and rehabilitation;
- the Child Labour Rehabilitation cum Welfare Fund/ Compensation Fund meant to be created as per the Supreme Court ruling; and,
- convergence between different actors.

The response has indeed been very poor. Only 10 states out of 11 where RTI applications were filed responded to them, each following their own interpretation of the questions asked. West Bengal partners in this social audit did not file any RTI application.

### Poor RTI Response

Either the states did not have information or the information was lacking in terms of gender break-up, separate break-up for domestic sector and dhabas and eateries and year-wise break up. Most State Labour Departments said that the information could only be sought from the respective District Magistrates/Collectors/ District Child Labour Officers. This only shows how well the State Departments and Central Ministry keep themselves updated so as to monitor the implementation of their child labour elimination programmes.

Response received from Jharkhand and Madhya Pradesh was very inadequate. In fact in Jharkhand, the reply to number of children rescued from the said two sectors was that “The department has not gotten any information to rescue children”. However, at the same time, in response to another related question it was reported that after the notification was implemented 15 children had been rescued from the hotel Sector and 11 from the domestic sector. Madhya Pradesh restricted itself to just one district and there too the information was lacking on most questions. In Goa no child labourers from the said two sectors were reported to have been rescued post the 10th October 2006 ban. Andhra Pradesh and Delhi provided separate information for the various districts.

### Number of children rescued from the two sectors since the ban

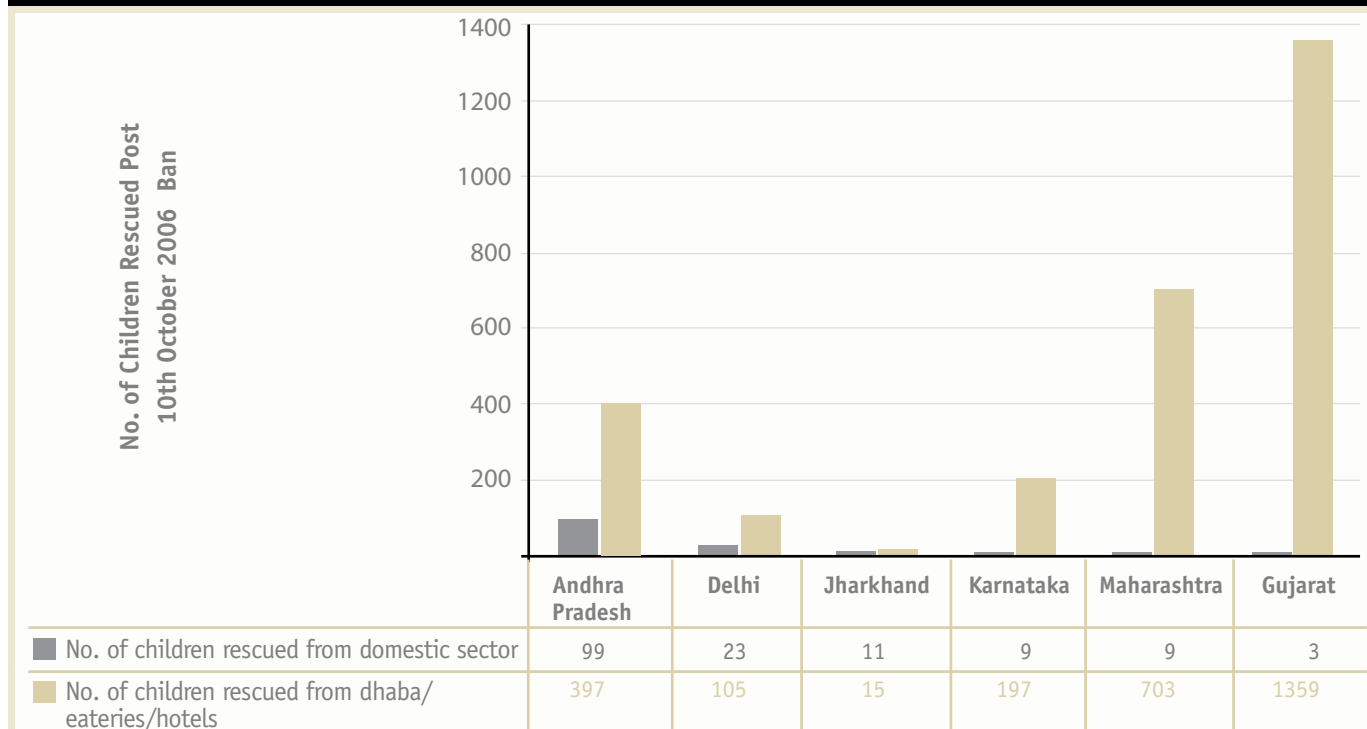
No. of Children Rescued in different States	2006	2007	2008	2009 January 2009 to March 2009
Andhra Pradesh	5	97	242	62
Bihar	NA	NA	474	1404
Delhi	04	91	33	NA
Goa	0	0	0	0
Gujarat	329	143	457	104
Jharkhand*	11 children rescued from domestic sector and 15 from hotel sector			
Karnataka	0	97	109	0
Madhya Pradesh	NA	NA	NA	NA
Maharashtra	81	226	370	35
Orissa	09	158	156	54
Tamil Nadu#	0	0	0	0

Note: NA – Not Available with the concerned Department or information not provided

\* Information limited to District Deoghar only

# 4 Districts – Tuticorin, Puthukottai, Thanjavur and Puducherry

## Children in Domestic Sector, Dhabas and Eateries - Rescue, Rehabilitation and Prosecution since the ban (2006-2009)



Different states followed different ways of responding to the same questions put to all the States/District Labour Commissioners/Officers. A compilation of the information has therefore been difficult. However an attempt has been made as follows.

In the eleven states from which data was collected using the Right to Information Act, the total number of children rescued from both domestic sector and dhabas and restaurants post 10th October 2006 ban is reported to be 4766. Six out of these 11 states provided a break-up of children rescued from the two sectors. These were Andhra Pradesh, Delhi, Gujarat, Jharkhand, Karnataka and Maharashtra. A close look at this break-up clearly establishes that most rescued children are from dhabas or eateries. The number of children reported to have been rescued from the domestic sector is very minimal – only 154 (5.23%) out of a total of 2496 children rescued from both sectors in these six states.

Even if all the 11 states had provided the desired break-up, the low numbers of children rescued from the domestic sector would speak volumes about the little and inadequate attention being paid to it. The excuse often given by policy makers and officials is that it is not possible for the Labour Inspectors to enter houses and conduct raids as ‘household’ is still not defined as an ‘industry’.

At the recent Conference of State Labour Ministers held on 22.01.2010 at New Delhi, Shri Mangat Ram Singhal, Minister of Labour, Government of NCT of Delhi informed that the issue of child labour working in homes is a very big issue as the inspectors are not empowered to enter homes.

Source: Record Note of the Discussion in the Conference of State Labour Ministers held on 22 January 2010 at New Delhi, Available at <http://labour.nic.in/lc/44Slc/RecordNoteDiscussions-44Slc.pdf>



## Rehabilitation of children rescued from the two sectors under NCLP/INDUS and action against employers

State	No. of children rescued from the two sectors	No. of children rehabilitated under NCLP/INDUS/ILO-IPEC	No. of children who received benefits from the Child Labour Rehabilitation cum Welfare Fund / Compensation Fund	No. of prosecutions	Cases where penalties were imposed on the Employers
Andhra Pradesh	406	266	68	164	2
Bihar	1878	NA	NA	2608	7
Delhi	128	0	6	94	11
Goa	0	0	0	0	0
Jharkhand	26	NA	NA	NA	NA
Karnataka	206	206	2	70	NA
Maharashtra	712	NA	0	110	NA
Madhya Pradesh	NA	0	0	7	1
Orissa	377	325	0	NA	NA
Gujarat	1033	0	0	0	0
Tamil Nadu	0	0	0	0	0
<b>TOTAL</b>	<b>4766</b>	<b>797</b>	<b>78</b>	<b>3053</b>	<b>21</b>

Note: NA – Not Available with the concerned Department

**The excuse often given by policy makers and officials is that it is not possible for the Labour Inspectors to enter houses and conduct raids as ‘household’ is still not defined as an ‘industry’.**

### ***Identification of child labour in the two sectors and rescue***

Surveys are carried out in all states to identify child labour. Yet most responses on such processes directed the RTI applicants to the District Magistrates/Collectors/Child Labour Officers. In Maharashtra, Bihar and Andhra Pradesh children are reported to be rescued by task forces or inspection squads. In Delhi too this is taking place after the Delhi High Court order dated 15 July 2009. In Madhya Pradesh, no figure is provided for number of children rescued from the two sectors and the response clearly states that no children have been identified from the two sectors for rehabilitation either. Yet action is stated to have been taken against seven employers. The RTI response from Tamil Nadu suggests that no child labour was rescued because various programmes have been conducted in order to create awareness among

the public not to engage children below 14 years both in hazardous and non-hazardous occupations and processes. It further states that “periodical Inspections are carried out by the Assistant Inspectors of Labour Department in order to identify children below 14 years employed in various hazardous occupations and processes and action is being taken to conduct a fresh survey”. In Puthukottai district there were no child labourers as on 31.05.2005 and therefore the Abolition of Child Labour Programme Office closed its entire activities. Response from these states also suggests that linkages between the Labour Department, the Police, and the Child Welfare Committees in carrying out rescue operations is established. However, complainants are not reported to be part of rescue operations unless it is an NGO. Response from some states such as Orissa point out that convergence between the different departments is yet to be established.

### ***Rehabilitation of rescued children under Labour Ministry’s Child Labour Elimination Schemes and Programmes***

Clearly all children being rescued from the said two sectors are not being rehabilitated under the Labour Ministry’s existing programmes and schemes for elimination of child

labour. The following issues emerge from the RTI responses as regards rehabilitation of children:

- The Labour Ministry's flagship scheme on eradication of child labour, the National Child Labour Project (NCLP) is not being used adequately for rehabilitation of children rescued from the said two sectors. Andhra Pradesh is the only state which seems to be sending rescued children to the NCLP schools/centres for rehabilitation, although not in all districts.
- While another child labour elimination project of the Labour Ministry called the INDUS Project has been closed, the schools or centres running under this project have not been shifted to the Ministry's flagship scheme i.e. the NCLP. As a result many children have been deprived of rehabilitation. The State of Maharashtra expressed its inability to provide information on rehabilitation of rescued children from the said two sectors for precisely this reason.
- In Delhi too it was found that the Technical Education Centres (TECs) running under the INDUS Project closed down w.e.f 30.09.08. Although it covered 2200 children in Delhi, of which 1782 were enrolled in

## Rehabilitation and repatriation of children rescued from the said two sectors is not a subject of the Labour Department

- RTI response from some states

schools, none of them were children rescued from the domestic sector or dhabas/eateries/hotels.

- Children rescued from the domestic sector are definitely not being rehabilitated under NCLP/INDUS Project or any other child labour eradication scheme of the Labour Ministry. The little information that could be collated from a few states is given in the table that follows.
- It is not known how these children are being rehabilitated if not through NCLP. In fact some RTI responses have very clearly stated that rehabilitation and repatriation of children rescued from the said two sectors is not a subject of the Labour Department.

NCLP provides only day schooling, whereas rescued children would need residential schooling facilities that help in bridging the education gap and linking up the child with mainstream education.

Source: Ammu Joseph, Missing links - II, 22 Oct 2006, <http://www.indiatogether.org/2006/oct/ajo-misslink2.htm#continue>

Rehabilitation of children rescued from the domestic sector under NCLP/INDUS and prosecution of employers					
State	No. of children rescued from domestic sector	No. of children rehabilitated under NCLP/ INDUS/ ILO-IPEC	No. of children who received benefits from the from the Child Labour Rehabilitation cum Welfare Fund / Compensation Fund	No. of prosecutions	Cases where penalties were imposed on the Employers
Andhra Pradesh	99	44	Information not clear	14	NA
Delhi	23	0	0	20	5
Jharkhand	11	Information not provided	NA	NA	NA
Karnataka	9	9	2	0	NA
Maharashtra	9	Information not provided	0	6	2
Gujarat	3	0	0	0	0

Note: NA – Not Available with the concerned Department

## ***Support for children and their families and setting up of the Child Labour Rehabilitation cum Welfare Fund/ Compensation Fund – Supreme Court Directions Flouted***

Most states have shied on giving information regarding Child Labour Rehabilitation cum Welfare Fund meant to be set up as per the Supreme Court ruling in MC Mehta v. State of Tamil Nadu and Others (1996). The amount of Rs. 20,000/- per child does not seem to have been collected from the employers in most cases. Whether the state governments have met their obligation of depositing Rs. 5,000/- in every case into the said Fund for assistance to the families also cannot be gauged from the responses received. In fact it is not clear if all districts in all the states have set up a Child Labour Rehabilitation cum Welfare Fund / Compensation Fund at all. Information on the amount collected in the said Fund wherever it exists is also not available.

Much confusion prevails over whether children are supposed to be given compensation out of this fund or not. The Supreme Court directive however, is very clear that children are to be provided education with the help of interest accruing from the money collected in the Fund.

Very few families seem to have received Rs. 5,000/- as relief assistance. No state has given job to a family of a rescued child in lieu of Rs. 5,000/-, as directed by the Supreme Court. Some of the district offices of the labour department in the state of Andhra Pradesh have however, provided some information in this regard. The response from Jharkhand for District Deogarh for instance was that there is no provision in the district of compensation fund for the families of child labour. Orissa has clearly stated that such information is not recorded.

In Tamil Nadu there have been no rescues, but the RTI response states that they follow the law i.e. “as per Child

**Despite government recognizing poverty and unemployment or lack of livelihood opportunities as major factors responsible for child labour, no state has given job to a family of a rescued child in lieu of Rs.5,000/-, as directed by the Supreme Court in MC Mehta vs. State of Tamil Nadu and Others.**

Labour (Prohibition and Regulation) Act 1986 the employer engaging children below 14 years in hazardous occupations and processes will be prosecuted with minimum of 3 months and maximum of 1 year imprisonment or with minimum fine of Rs.1,000/- and maximum of Rs.20,000/- or with both.

In case of child labour identified in non hazardous occupations and processes they will be rehabilitated by giving two hours informal education with noon meals, as Rs.250/- will be collected from the employer and it will be credited in the children’s account”.

The response on Compensation Fund from various states is as follows:

*Andhra Pradesh* – By and large there seems to be a Child Labour Rehabilitation cum Welfare Fund in every district. In Nellore this fund is under the control of the District Collector, which is given to the child after such child becomes major and the fund is used as per the desire of the individual. National Savings Certificates are issued or Fixed Deposits are opened, which are to mature when the child turns 18. The same is applicable in the case of inter-district matters. A similar process seems to be followed in Guntur. In Warangal, no compensation fund has been disbursed post 10th October 2006 notification banning employment of children in domestic sector and dhabas and eateries, but amount collected by way of fine in 2007 was Rs. 60,000/-, which was deposited in Andhra Bank in the name of Welfare Fund. An amount of Rs. 1.40 lakh was collected from 7 employers in Mahboobnagar district and deposited in the bank in the name of the District Child Labour Welfare cum Rehabilitation Fund as per the guidelines. In other districts either there is no such Fund or the information provided is inadequate and unclear. For example in Vishakapatnam, it is reported that Rs. 2,80,000/- was collected towards fine. This must have been put into the Child Labour Rehabilitation Fund as required by rules. However, that is not stated in the response received from the labour department.

The Andhra Pradesh response shown in the table that follows clearly substantiates the kind of confusion that prevails with respect to the Child Labour Rehabilitation cum Welfare Fund and how is it supposed to be used to provide benefits to the rescued child and his/her family.

*Bihar* – Fund collected through penalty on employers is directly deposited in the Child Labour Rehabilitation-cum-Welfare Fund constituted at District level. The Fund is controlled by the District Magistrate. Details should be

Districts	No. of children rescued from the two sectors	Benefits provided through the Child Labour Rehabilitation cum Welfare Fund
Karimnagar	31	NA
Nellore	50	In the year 2007 in two cases Rs. 40,000/- was deposited in the Fund @ Rs.20,000/- per child.
Guntur	51	District Child Labour Welfare Fund has Rs. 1,60,000/- collected from 8 Cases relating to hazardous sectors @ Rs. 20,000/- per case.
Chittoor	-	-
Sanga Reddy (Medak)	-	Rs. 80,000/- collected in the Fund in the year 2009.
Adilabad	1	1 case (Rs. 20,000/-).
Nalgonda	-	-
Kurnool	49	NA
Anantpur	2	NA
Vishakapatnam	67	Rs. 2,80,000/- collected towards fine.
Warangal	18	18 children rescued and in each case Rs.20,000/- collected as fine from employers amounting to a total of Rs.3.60 lakh - (Rs.1,40,000/- in 2008 and Rs. 2.20 Lakh in 2009). National Savings Certificate for 9 members, Fixed Deposits for 3, account payee in favour of District Child Labour Welfare Fund for 4 members, remaining amount details not mentioned.
East Godavari	64	Out of 64 rescued children only for 8 children paid Rs.20,000/. Amount collected into the Fund is Rs. 1,60,000/-
Kadapa	-	-
Srikakulam	3	
Vizyanagaram	18	
Mahboobnagar	40	13 children paid compensation. Amount collected from 7 employers was Rs. 1,20,000/- in 2008 and Rs. 20,000/- in 2009. It was deposited the bank in the name of the District Child Labour Welfare cum Rehabilitation Fund as per the guidelines
West Godavari	12	No compensation fund has been disbursed during the period but amount collected by way of fine in 2007 was Rs. 60,000/-, which was deposited in Andhra Bank in the name of welfare fund
<b>Total of 17 Districts</b>	<b>406</b>	<b>Mixed Response from the Districts and also a very confused response</b>

collected from the District Magistrates who are independent PIOs.

*Delhi* – No information available. But states that 6 children have received compensation of Rs. 20,000/- from the Compensation fund.

*Jharkhand* – There is no provision of Compensation Fund in Deogarh for families of child labour.

*Goa* – So far no cases of child labour have been detected to make use of the Corpus Fund. Rs. 1,65,000/- have been collected in the Fund since the year 2000. There is no information as to where this amount is collected from if there were no rescues at all.

*Gujarat* – No amount deposited in the Fund from cases of child domestic work. However, Rs. 80,000/- deposited in the Fund from cases of children employed in dhabas and

eateries. This is basically the amount collected from 3 cases in which penalty was imposed on the employers. Rs. 5,000/- per family is not part of the Fund as required under the Supreme Court judgement.

*Karnataka* – Rs. 1,00,41,401/- collected in the Fund. No other information available.

*Maharashtra* – No information.

*Orissa* – It has not worked out yet. Compensation fund is not implemented. A further reply states that the Compensation Fund has Rs. 1,20,000/-, of which Rs. 1,00,000/- was collected in the year 2000 from an employer in Paradip Port, Jagatsinghpur after a child was rescued from his prawn factory. The rest Rs. 20,000/- is amount collected from Rayagada Traders, Rayagada District.

*Tamil Nadu* – There is a fund which has the amount collected from the employers of the children found in non-hazardous establishments. Since the year 2002, Rs.5,550/- have been collected towards cost of two hours' non-formal education for children in non-hazardous sectors. Tamil Nadu, of course, has been a little ahead of others in terms of thinking about children in non-hazardous sectors also.

## **Prosecutions and Penalty**

The rate of prosecution is poor. To add to this, most cases are pending in the courts and where disposed off, penalty need not necessarily be imposed on the employer. Such a sad state of affairs has taken away the element of deterrence from the law. Prosecutions have taken place in only 64.1 per cent of the total number of cases of children rescued from the two sectors in 10 states. Given the lack of clarity in information received from Bihar, the state figures for children rescued and prosecutions may be ignored. In that case, the number of prosecutions would fall drastically to a mere 15.4 per cent.

**The Constitution of India in Article 23 prohibits employment of children 14 years of age in hazardous occupations.**

**Neither the Constitution nor the Supreme Court of India meant to uphold it in both letter and spirit, seem to make any difference.**

**The fact that child labour is not a cognizable offence under the Child Labour (Prohibition and Regulation) Act, 1986 clearly makes it difficult to prosecute the offenders.**

Of the 445 prosecutions leaving aside the numbers provided by Bihar, only 40 relate to child domestic work i.e. 9.1 per cent.

In Gujarat, 18,644 inspections were carried out in the domestic sector, but only 3 complaints were registered and no employer was arrested. In dhabas/eateries/hotels, 7,233 inspections are reported to have been carried out resulting in 448 complaints and rescue of 1030 children, but only 23 arrests.

In Madhya Pradesh, of the 7 cases in which action was instituted against the employers, only in 1 case was a penalty imposed on the employer and that too an amount of Rs. 10,000/- by the court.

Studies and experience indicate that often cases of child labour are not booked under appropriate law. As mentioned by Dr. Bharti Sharma, Former Chairperson of a Child Welfare Committee in Delhi in a recent study by the Centre for Education and Communication (CEC), “Earlier domestic work was not banned so cases were filed on other counts like sexual or physical abuse. Now that it is banned the Child Labour Act can be used.”<sup>3</sup>

## **Child Domestic Work – An Alarming Threat**

According to a Report of the National Commission for Enterprises in the Unorganized Sector there are estimated 4 million domestic workers in India, of whom 92 per cent (3,680,000) are women, girls and children. 20 per cent (7,36,000) are said to be under 14 years of age and 25 per cent (9,20,000) between the ages of 15 to and 20<sup>4</sup>.

Findings from a survey by Right Track, a Kolkata based NGO are also revealing.

Right Track has been working on the issue of child domestic workers in the Kolkata Municipal area for the last seven years. They have been conducting periodic surveys (every three months) to monitor the situation and assess change. According to the organization, the ban on employment of children in domestic work has made it even more difficult to identify child domestic workers and conduct any survey in this regard. It perhaps might be true, especially in a nation

3 Anjali Deshpande and Sujata Madhok, Child Domestic Workers in Delhi, Centre for Communication and Education, 2010

4 National Commission for Enterprises in the Unorganized Sector, Report on Conditions of Work and Promotion of Livelihoods in the Unorganized Sector, August 2007, pg. 86



**SURVEY REPORT FROM APRIL 2009 TO NOVEMBER 2009**

State	Ward Number rescued from the two sectors	No. of Households	Child Domestic Workers Identified	Live-in Child Domestic Workers	Non-Live in Child Domestic Worker
1.	78, 79	275	29	5	13
2.	93, 95, 96	457	40	14	8
3.	90	271	15	3	12
4.	131, 126	135	11	2	0
5.	127	120	8	3	5
6.	85, 86	295	53	23	11
7.	88	108	12	4	6
TOTAL		1661	168	54	55

Note: NA – Not Available with the concerned Department

The latest United Nations Development Programme report has uncovered that 40 per cent of the domestic servants working in homes in Mumbai, India's richest city are under age 15. According to this enlightening report this number is increasing at an alarming rate, rather than decreasing. It further states that "Often these young domestic helpers are abused, verbally and physically and also sexually exploited."

*PTI, 10th September, 2009*

where child labour is not perceived as a crime but as a social evil demanding charity for children by way of employing them rather than rights-based action that could guarantee children their childhood and all rights associated with it.

...an estimated 185,595 children are employed as domestic help and in dhabas (small roadside eateries)... 74 per cent of child domestic workers in India are between the ages of 12 and 16.

*Jyoti Rao, Domestic child labour in India © UNICEF/India/2007*

In Goa, the RTI response states that there have been no rescues from the domestic sector. However, three organisations working in the state who were part of this audit reported 38 such cases to the police between the years 2006 and 2009, relating to children, many from Karnataka.

Most domestic workers work in exploitative situations. The degree of exploitation may vary, ranging from being underpaid to worst forms of violence. The fact that a domestic worker is almost always the first one to be suspected if things go missing from the home makes it very clear that they are vulnerable to exploitation, abuse and maltreatment. Do we really need to wait for things to become so bad...

***Some shocking insights on how the protectors fail to protect...***

On orders from the Supreme Court, the central government amended the All India Service (Conduct) Rules 1968, in February 2000. This prohibited employment of children below the age of 14 years as domestic servants by government servants. However, lack of enforcement encourages even top officials to flout these Service Rules.

**Minor girl working as help rescued from Gurgaon house**

HT Correspondent  
Gurgaon, November 8

THE NATIONAL Commission for Women, along with a police team, rescued a 13-year-old girl, who worked as a domestic help with a household in Gurgaon, on Friday. Her employers allegedly often beat the girl. She was found with injuries on her face and body.

The girl from Karimganj in Bangladesh was working at the residence of Devok Das and Paromita Das since April this year. The family lives in a house in Keshriya Vihar in Sector-56.

The couple, who have two daughters (4 and 6 years old), were arrested and booked under various sections of Juvenile Act, Bonded Labour Act and numerous Acts of the IPC.

According to the victim, the family tortured her for making small mistakes. She was rescued after some neighbours forwarded a complaint to the women's commission. They went and raided the place with the police

PARVIN KHAN/HT

The 13-year-old girl who was rescued from a house in Gurgaon; (right) the employers, Devok Das and Paromita Das, at the police station.

and the local branch of the Shakti Bahini.

"We came to know that the accused beat her regularly. When we went to the place on Saturday morning, we found that her eyes were swollen and her fingers were broken. She told us that they regularly burnt her with hot frying pan," said Msipu Hembrom, member of the commission.

Devok Das works with an MNC in Gurgaon, while Paromita is the associate director with a firm in Faridkot.

During interrogation, they reportedly confessed that they tortured the girl as a means to fight tensions.

"Paromita told the police that she had long working hours and the work pressure affected her. She said that was the reason behind her torturing the girl," said Hembrom.

The girl has been sent for rehabilitation to Salamm Balak Trust. She will also undergo medical tests. The police are investigating the matter further.

http://reporter.independentnews.com

On 26 August 2007, in the house of a high-ranking Planning Commission official, a 12-year-old girl Tapti (name changed), a child domestic committed suicide. In spite of the ban on the employment of underage domestic servants, Tapti was working as a domestic servant and driven to suicide. No action was undertaken against the employer. Tapti is not within the radar of the government.

*12.67 million Child Labourers – Govt. identifies only 6,669. Available at <http://www.globalmarch.org/news/101007.php>*

On 10 February 2010, newspapers carried reports of an IAS official in Delhi's Kakanagar area against whom a case was booked for employing an 11 year old child as a domestic help. Reports suggest that the child was working at this officer's residence since the last four years and was being paid a mere Rs 500 annually. He was made to work from 5 am till midnight, had to sleep on the floor and was often scolded and even beaten.

*HT, IAS officer in dock for child labour, Monday, 1 February 2010*

In the course of this audit, members of CACL and CACT received a lot of support from Media channel NewsX. While the channel launched a campaign of its own on the issue of child labour, it also helped CACL and CACT expose what goes on in VIP areas, right outside the Ministries, where children can be found everyday on tea stalls and roadside eateries. Besides, a major investigation by NewsX exposed important politicians and legislators in the Delhi Government on the issue of child domestic work. On 14 November 2009, the channel aired news about an 11 year old child found working as a domestic help for the State Minister for Food and Civil Supplies, Sh. Haroon Yousuf. To add to this, The State Minister for Social Welfare and Labour, Sh. Mangat Ram Singhal went on air stating that there was nothing wrong in it as the child was employed by the Minister only at his home and not somewhere else. Despite petitions to statutory child rights protection bodies i.e. the National Commission for Protection of Child Rights (NCPCR) and the Delhi State Commission for Protection of Child Rights (DCPCR), there was no action against the said Ministers. DCPCR washed its hands off after assuring action on grounds of inability to act on matters taken up by the NCPCR. The NCPCR did not bother to inform the petitioners about the course of action till an RTI application was filed and a reply sought by members of CACT and CACL. Shockingly, the Chairperson





of the NCPCR gave a clean chit to Sh. Haroon Yousuf and expressed her gratitude to the Minister for replying to their letter.

A protest was also held at a function organised by the Department of Women and Child Development, Govt. of NCT, Delhi, where the Chief Minister of Delhi Smt. Shiela Dikshit launched a logo on the government's anti-child labour campaign. The reason for protest was presence of the State Social Welfare and Labour Minister, Sh. Mangat Ram Singhal as the Guest of Honour despite his remarks favouring employment of children as domestic workers. A child put questions to the Chief Minister, which went unanswered.

## Dhabas/Eateries/Hotels/ Restaurants – Findings from the Highway Sample Survey

To be able to find children working in dhabas or roadside eateries, timings play an important role. In Mumbai for instance, on 18 February 2009, the survey team travelled for almost 8 hours covering a 30 kms. stretch and found a little

### Number of child workers (5-14 years) engaged in Hazardous Occupations as per 2001 Census

States	Children under 14 found in dhabas/eateries/restaurants on various highways
Andhra Pradesh	120
Delhi	64
Goa	34
Jharkhand	16
Karnataka	13
Madhya Pradesh	8
Maharashtra	560
Uttar Pradesh	77
West Bengal	17
<b>Total</b>	<b>909</b>

Out of 875 children found on national and state highways/roads, detailed information could not be collected for 699 (79.9 per cent). Of 185 children for whom information regarding period of work was available, 28.7 per cent had worked for less than a year, 49.2 per cent had worked for one to two years, 42.2 per cent had worked for two to three years and 12.4 per cent for more than three years. These children are either locals or hailing from states such as Orissa, Bihar, Uttar Pradesh, Punjab and Nepal. Many of them are school drop-outs. It is difficult to suggest an average earning, but out of 250 children for whom such information is available, 126 (50.4 per cent) earned less than Rs. 1000/- per month, some as little as Rs. 300/-. In Madhya Pradesh for instance it was found that 6 out of 8 children met earned less than Rs. 1000/- a month. In addition to children below the age of 14 years, children in the higher age group were also found working in dhabas and roadside eateries. For example, 31 children aged 15 years and above were found on two highways covered in Delhi and 85 were found on two stretches covered in Mumbai alone.

**Indian children work despite ban (BBC NEWS)**

Dated 10<sup>th</sup> October 2008

Millions of children under 14 years continue to work as domestic servants or at food stalls two years after India banned their employment, say activists.

Activists say there has been little progress in curbing child labour as only 12,000 children have been removed from illegal employment since the ban.

According to official statistics, there are 255,000 children employed in homes and at roadside food stalls.

But activists say their numbers could be as high as 20 million.

According to Save the Children, the number of children working in homes in Delhi alone is seven to eight million.

According to the 2001 census figures, India has more than 12.6 million child workers. Children's groups put that number at between 35 to 60 million.

**Major problem**

... Since the ban came into effect, the labour ministry has carried out 12,000 operations to remove children from illegal employment, but there have been only 211 prosecutions.

A government committee had earlier warned that children under 14 were vulnerable to physical, mental and even sexual abuse.

The child workers are not organized and as they work within the confines of the home, they are unseen and unheard and their abuse goes unreported...

**Ineffective**

The ban on employing children from working as domestic servants or in shops, restaurants, spas, hotels, resorts and other recreational centres came into effect on 10 October 2006. Officials said that anyone found violating the ban would be penalized under the Child Labour Prohibition and Regulation Act of 1986. Punishment ranges from a jail term of three months to two years and/or a fine of 10,000 to 20,000 rupees (about \$200-\$400).

However, activists say laws have remained ineffective in curbing child labour.



## GOA: A case in point

A survey of children working in hotels, restaurants and shacks in Goa undertaken as part of this audit, contradicts the RTI response showing no child rescued from hotels/dhabas/eateries post the ban

Type of work	Age	Gender		Education	Income	Total
		Male	Female			
Shacks	6 - 14	9		No info (7) Never attended school -1 Dropout -1	No info (7) 1000-2000:1 2000-3000:1	9
Restaurants	6 - 14	11	2	1 school going Never attended school -1	300 – 3000	13
Domestic work	6 - 14	1	10	1 school going Never attended school - 4 Dropout - 4	300 – 1000 :9 1000-2000:1 2000-3000:1	11
Bars	6 - 14	1		Never attended school- 1	Below 1000:1	1
						34

Areas covered:

1. South Goa - Baina Slums, Vasco. The survey was conducted by ARZ staff. A total number of 557 household covering 874 children were covered.
2. North Goa - Pernem and Bardez Talukas covering Mapusa, Siquerim, Candolim, Anjuna, Vagator, Calangute, Siolim, Ashvem, Mandrem, Dhargal, Ozarim, Agarwadda. A total of 171 shacks, 44 restaurants and hotels and 9 bars were covered.  
  
The survey was done by the CRG team members through night patrolling on the beach. NSS students of St. Xavier's conducted the survey in Pernem Taluka and on the coastal belt of Bardez Taluka.
3. South Goa – Quepem, Salcette, Canacona Talukas covering Seraulim, Lakaki, Colva, Benaullim, Sernabatim, Betul, Cuncolim, Khareband, Maruti Mandir, Gudimol, Xeldem & Gandhiagar. A total of 30 Shacks, 16 Restaurants and Hotels, 9 Bars, 156 households were covered by the team from Jan Ugahi Trust in Jan 2010.

less than 15% children below 14 years of age working under serious conditions. The team felt that this number could have been higher if the survey was carried out in the evening. On 19 February 2010, the team therefore started at 6.30 pm and went on till 12 am, on a different route. The team found that 50% of the children working within a stretch of only 13

kms. were below the age of 14 years. Most of them worked on the streets at chinese food vans, omlette pav selling stalls, juice outlets etc. and at a time when its dark and fearful, making them vulnerable to all forms of abuse.

## Long road to cover for child labour ban

By Kavita Chowdhury  
in New Delhi

THREE years have passed since a ban on employing children as domestic helps came into effect on October 10, 2006. The Delhi government has admitted that since then, it has been able to initiate proceedings in only 13 cases and penalised just two employers.

According to estimates, more than 50,000 children in the Capital are employed as domestic helps. Government records also acknowledge that in the past three years, not a single child who was found working as a domestic help was rehabilitated.

The state of implementation of the Prevention of Child

Labour law is appalling. Right to Information Act queries revealed that to date only two children were given a compensation of Rs 20,000.

Bharti Ali of Campaign Against Child Trafficking (CACT) said: "The law, it seems, exists

### The law came into force on Oct 10, 2006

only on paper. Even labour department inspectors express their helplessness saying they are not empowered to enter homes. Children con-

tinue to work as domestic helps and in roadside *dhabas* but the enforcement agencies turn a blind eye."

"We have failed to protect our children," she added.

Raaj Mangal of Pratidhi described the government's attitude as "disappointing".

"There is a need to amend the Prevention of Child Labour law to make it more stringent. Child labour is not a cognisable offence. There is also an urgent need to clearly define the 'age' criteria," he said.

While the Juvenile Justice Act defines a child as below 18 years, the child labour law restricts working children to

14 years of age. This gives employers a leeway to pass off young children as 15 and above to escape the law.

With no official data on the number of working children in the country, child rights groups such as Campaign Against Child Labour (CACL) and CACT have decided to conduct a "social audit". Through intensive field studies across the country, these groups will collect data on the number of working children and submit it to the labour ministry as well as the National Commission for Protection of Child Rights.

## CONTRADICTIONS GALORE...

According to the RTI data received from the labour departments in 11 states, 4766 children are reported to have been identified and rescued by them over a period of three years from both the sectors being looked at. Of these 11 states, 6 are those where highway sample survey was also carried out. If we compare the data collected for these 6 states through RTI and through the highway sample survey, we find that the RTI response generates a figure of 1478 children rescued from both domestic sector and dhabas and eateries over a period of three years, whereas the highway sample survey identified 781 children under 14 years of age working in dhabas and eateries over a limited stretch of a little over a thousand kilometers, covered in a few days.

A PTI news dated 10 September 2009, highlighting a recent UNDP Report mentioned that the Mumbai Municipal Corporation admits that 40% of domestic workers in the city are children below 15 years of age. However, the RTI response from Maharashtra gives a figure of only 9 children rescued from the domestic sector in the last three years.

Data collected from the four CWCs in Delhi using the RTI Act shows that 123 child domestic workers were produced before the CWCs between 2006 and 2009, while the RTI information received from the Labour Department of Delhi puts the figure at only 23.

A survey of children in hotels, restaurants and shacks in Goa conducted as part of this audit by three organizations - Anyay Rahit Zindagi (ARZ), Children's Rights in Goa (CRG) and Jan Ugahi Trust (JUT), identified 34 children. In addition, between 2006 and 2009, these organizations have themselves been involved in the reporting or rescue of 55 children from the domestic sector, hotels and eateries. The complaints were made to the police and the labour department seems to have no idea about these cases because the RTI response from the Labour Department clearly states that no child has been rescued from the said sectors during this period.

The most evident inference to be drawn from such contradictions is that the magnitude of the problem is far greater than what is on record and the enforcement of law is very weak and poor. Also, there is no tracking of children and lack of or inadequate data management allows the problem to remain invisible.

Lack of coordination between the various authorities and departments too is bound to add to the confusion regarding numbers as well as put many of these children at risk, further leading to a failure in ensuring their protection and rehabilitation comprehensively.



## Child labour in Dhabas in VIP areas

A survey of VIP areas such as the Parliament of India and the Shastri Bhawan that houses various important Ministries by anyone will show the number of children employed in roadside dhabas, eateries and tea stalls within a radius of 1.5 to 2 km. While this was captured by NewsX and aired too, in other states also the picture is not any different. These children cater to not just those visiting the Ministries and other offices, but to many working there, including top ranking Government Officials. The indifference of our policy makers and government officers is evident as one takes a walk around such areas. In Kolkata, members of CACL undertook a small exercise and found many children working in dhabas, eateries and tea stalls on footpaths in the Kolkata Municipal Area. A survey on Hare Street shows the following:

Sl. No.	Contact details of the employer/ <i>dhaba</i>	Exact or approximate age of the child and conditions of work	Domicile	Working since	Monthly earnings of the child	Education
1	Kanpur Leather House 1 Dekers lane Beside Great Eastern Hotel Road side hotel	14 12 hours of work No shelter	Sewan Bihar	4 yrs.	1500	up to class VI
2	LIC Lane Behind Writers Building Road side hotel	10 12 hours of work No shelter	Murshidabad Barahampur	1 yr	Seven days lease basis	Left school in class IV
3	2 Dekers Lane In front of Great Eastern Hotel Dharamjit Singh Footpath hotel	8+ 12 hours of work No shelter	Gorokhpur Uttar Pradesh	4 yrs	1200	up to class III
4	2 Dekers Lane Tulsi Shaw Footpath hotel	10 12 hours of work No shelter	Chapra Bihar	7½ mnths	1200	up to class IV
5	2 Deckers Lane Footpath Tea shop	11 12 hours of work no shelter	Sewan Bihar	2 yrs	700	up to class II
6	Shahi Biryani 185 Lelin Sarani	12 12 hours of work 11 am - 11 pm	Nawada Bihar	1 yr	1500	up to class IV
7	Shahi Biryani 185 Lelin Sarani	14 12 hours of work 11 am - 11 pm	Kathihar Bihar	3 mnths	1200	up to class I
8	Shahi Biryani 185 Lelin Sarani	11 12 hours of work 11 am - 11 pm	Kathihar Bihar	7 mnths	900	up to class III
9	Shahi Biryani 185 Lelin Sarani	9 12 hours of work 11am - 11pm	Kathihar Bihar	1 mnth	-	never gone to school



Image Source: News X

Names of the children are not disclosed in order to maintain their privacy. These children were found working in permanent or non-permanent tea stalls, probably due to the heavy demand in an office area for cheap and best food and tea. This also implies demand for cheap labour to supply tea and food in the offices.

Most children found belong to the Muslim community and hail from Bihar or Eastern UP. Only one of the nine children was from West Bengal, District Murshidabad. All of them except one, are school drop-outs and now in a situation of where they have to put in twelve hours of work with wages ranging from a low of Rs.700/- a month to a maximum of Rs.1,500/- per month. Clearly many of them are not provided any shelter by the employers even after twelve hours of work ending perhaps late at night, making their situation even worse. Four out the nine children met with were working for the same employer. This employer undoubtedly believed only

## Excerpts from the State Labour Ministers' Conference, 22 January 2010

Shri Awdesh Narayan Singh, Hon'ble Labour Minister, Bihar	...suggested for sanctioning of more number of schools as there are a large number of children who have been identified working in hazardous occupation/processes.
Shri B.N.Bacchegowda, Minister for Labour, Government of Karnataka	...stated that the day schools for Child Labour should be converted into residential schools. Survey has not been done either by the Centre or the State Government. Karnataka has huge figures of dropouts and non-school going children.
Mr. Kishan Kapoor, Hon'ble Minister of Labour & Employment, Himachal Pradesh	...suggested taking up survey of child labour in the State and establishment of rehabilitation Centres
Shri Chandrasekhar Sahu, Minister of Labour, Chhattisgarh	... during 2008-09, 2980 children have been mainstreamed.
Shri Prakash Pant, Hon'ble Minister of Labour, Uttarakhand	...different steps are being undertaken for improvement of the condition of the workers and the Child Labour.
Shri Lalrinliana Sailo, Minister, Government of Mizoram	... Child Labour is not a serious problem at present in the State of Mizoram, but it could escalate into a major problem, if due attention is not given immediately.
Shri Anadi Kumar Sahu, Minister, Government of West Bengal	...child labour is a severe problem in the State. However, residential schools have been started in five districts, and it is proposed to cover all the districts. The State Government needs financial assistance. NCLP school teachers and staff remuneration is very low which should be enhanced.
Shri Saurabh Garg, Secretary, Industries, Government of Orissa	...he requested for survey on child labour, because data was not available on child labour.
Shri Bhanwar Lal, Principal Secretary, Labour & Employment, Andhra Pradesh	...mentioned that the State of Andhra Pradesh was the second State in employing largest number of children in 2001. This has come down due to convergence from 13 lakh to 2.6 lakhs. Residential bridge courses are being run aimed at rehabilitation of the child labour. He proposed enhancement of honorarium paid to staff of NCLP Society/School.
Shri R.S.Chib, VSM, Hon'ble Minister of Medical Education, Technical Education and Youth Services and Sports, Government of J & K	...stated that the State requires more NCLP schools There are two districts where schools have good enrolment. Children working as domestic servants are also a big problem in the State.
Shri Mangat Ram Singhal, Minister of Labour, Government of NCT of Delhi	...informed that the issue of Child Labour working in homes is a very big issue as the inspectors are not empowered to enter homes.
Ms. Kavita Gupta, Secretary Labour, Government of Maharashtra	...raised various issues relating to domestic workers and child labour. She said that 827 maids have been identified and registered; and 2716 child labour had been released since March 2009. She informed that 1020 employers had been prosecuted for violating Child Labour Act;  She suggested that the age of child labour should be raised from 14 years to 18 years; and remuneration of NCLP teachers should be increased.  She further suggested that legislation should be amended to include children engaged in entertainment industry and domestic spheres.

Shri Mahender Pratap Singh, Minister, Government of Haryana	...Child Labour problem is non-existent in Haryana. He said that the State is implementing the provisions to attend the issues by the Government from time to time in small dhabas and homes. He further said that another problem is economic status. The State has tried to attract the attention of children towards education and had been providing stipend, uniform to the economically backward children. He suggested that public awareness about the child labour laws is to be taken up on a large scale. Diet money of Rs.5/- under the Mid-day-meal scheme is not sufficient. It is suggested to be increased to Rs.10/-.
Shri D.K.Chakraborty, Commissioner and Secretary, Government of Tripura	...industrialization is taking up in West Tripura and there may be the problem of child labour there. He proposed for conducting a survey of child labour.
Er. T.Saku Aier, Parliamentary Secretary, Nagaland	...mentioned that Nagaland so far has only NCLP School and to open more, funds would be needed. We have received only 50% funds. One district is selected. There were difficulties in getting the funds.

Record Note of the Discussion in the Conference of State Labour Ministers held on 22 January 2010 at New Delhi, Available at <http://labour.nic.in/lc/44Slc/RecordNoteDiscussions44Slc.pdf>

in keeping child labour and perhaps that would have been evident to the regular customers, including people working in the nearby government offices. Yet not one person seems to have come forward to challenge the employer and take action against him for violating the law.

In October, 2007, child rights groups like Alarippu (also a Child Line organization) in Jaipur, Rajasthan began some surveys with an aim to understand the prevalence of child labour, particularly in dhabas and eateries located at prominent places, despite the 10th October 2006 ban. This included the High Court and the Sessions Court, the Collectorate and the Mini Secretariat. They found more than 36 children under the age of 14 years working in tea shops right under the nose of the protectors of law. About 18 were in and around the Sessions Courts and 18 in the High Court. When the rescue operation was carried out, the labour inspectors refused to touch the tea shops. According to them, since these were not permanent establishments, the employer would give a false address and disappear, which caused a problem at the time of prosecution. The entire emphasis was on building a case against the employer for prosecution. Initially the Bar Association had been approached to take the initiative in rescuing these children and rehabilitating them. While the Bar refused to take action on its own, it said that it would not interfere if there was action by others.<sup>5</sup>

Surely, protection of children has to be the primary concern and that can be worked out using the programmes and

5 Rajasthan Labour Watch, Challenges faced by activists when rescuing child labour in Jaipur, undated.

schemes meant for care and protection of vulnerable children and their families. But as the old saying goes, it is only where there is will that there is way!

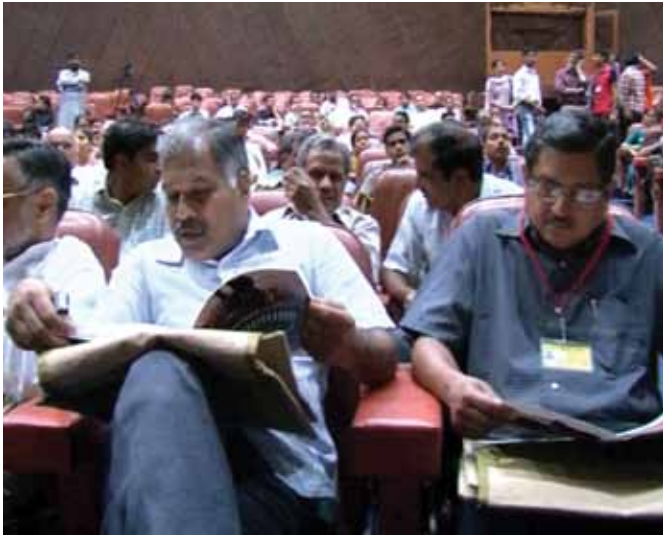
For both children in dhabas, roadside eateries and hotels as well as children in domestic work, such a will is lacking and the demand seems high despite legal prohibitions. While there is information about the law, the indifference to the law is apparent. Also, people have learnt to deal with corrupt and weak enforcement. The NewsX story of children working near the Shastri Bhawan area revealed that even the working children know the law and while they clearly looked under 14, they claim to be 15 years old. The message has gone out loud and clear, but the economics and politics of child labour help the phenomenon to continue unabated.

## National Consultation and Public Hearing

One of the objectives of the audit was to hold a National level Public Hearing where findings of the audit could be shared widely and selected representatives of children from different states could depose before a jury. Prior to the public hearing, the report was shared with both adults and children on 29th April 2010 through two separate consultations.

While children selected a few amongst themselves to depose and bring their concerns to light during the public hearing, adults churned out a list of actions to be undertaken in future.





In addition to the questions raised and suggestions listed in the concluding part of this report, the adult consultation led to the following points of action by CACL and CACT:

- Focus on the Right to Education
- Continuation of monitoring state performance
- Defining child labour and its different forms like part-time, full-time, day-time child labour etc.
- Undertaking rescue and rehabilitation of children identified during the course of the social audit
- Working with housing societies to get them to ensure that child labour does not exist in their societies and if it does, then it gets reported.
- Ensuring that over the next one year district level task force is established to monitor the child labour situation and take necessary action. It is equally important to ensure that the task forces meet regularly and document their discussions and action.
- Ensuring that in the next one year all School Monitoring Committees (SMC) are established and functional with representation of parents, NGOs, schools, students and ex-students.
- Engaging with the community and making them aware about the issue as well as their responsibility towards children.
- Linking up the child labour issue with the gram panchayats and other local authorities.
- Seeking issuance of Identity Card to rescued children so that they can avail the benefits of other programmes and schemes for people below poverty line.
- Advocacy and lobbying with the government for greater focus on employment for adults, living wages for all, social security and poverty reduction programmes.

- Monitoring implementation of government's welfare schemes meant for children.
- Spreading awareness amongst employers about the law.
- Ensuring establishment of Child Welfare Committees in all districts as per the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006 and working towards strengthening them.
- Advocating for strategies at inter-state level to deal with child trafficking.
- Translating the National Social Audit Report into other languages and holding public hearings at the state level.

### **National Public Hearing, 30 April 2010**

30th April, the Baal Mazdoori Virodhi Diwas (National Anti-Child Labour Day) was marked with a National Public Hearing on the ban on employment of children in domestic sector and dhabas/hotels/eateries. This was also the logical sequence to the national social audit carried out in 13 states. The Public Hearing was attended by over 500 people from civil society organizations, children, representatives of various government bodies, police, labour department, child welfare committees and media. The shared expression of concern for child labour was indeed overwhelming and the verdict of the jury too was encouraging.

The Public Hearing began with sharing the findings of the social audit report through an audio-visual followed by deposition of 17 children before a jury, reactions from both state and non-state actors and finally the verdict of the jury and their concluding remarks.



The five member jury included following eminent persons and experts from various fields:

1. Dr. Syeda Hameed, Member, Planning Commission of India
2. Mr. RK Raghavan, Senior IPS Officer and Former Director, Central Bureau of Investigation
3. Mr. Arvind Kejriwal, RTI Activist and Magsaysay Award Winner
4. Ms. Vimla Ramchandran, Education Specialist
5. Advocate Ashok Agarwal, Senior Advocate, Supreme Court of India

While questioning the distinction between hazardous and non-hazardous sectors of employment when it comes to children, the hearing proceeded on the note that even in terms of prohibition of employment of children in hazardous

sectors, India is far from achieving the target. Going by the Labour Ministry's own data, only 0.48 million children have so far received relief through its flagship project on child labour i.e. the NCLP, while the total number of children working in hazardous sector is reported to be 2 million.

Depositions by children was divided into two parts – the first part involved hearing the children who have worked or are working in hotels/dhabas/eateries, while the second related to children who have worked as domestic workers. Children from hotels/dhabas/ eateries were all boys, while those from the domestic sector were all girls except one. There was one child from Jharkhand who had worked in a neighbour's farm as a cattle grazer. Since every state was being represented during the depositions, from Jharkhand he was given an opportunity to speak in the first part itself, even though the Public hearing did not relate to the farm sector.

## **CHILDREN FROM HOTELS/DHABAS/EATERIES**

### **SIDDHU, age 15 years, Goa**

"I used to work in a canteen at the Sivadda Ayurvedic Hospital in Goa. I worked there for 2 years but after that the child labour department stopped me saying that I was too young to work. I have three brothers and one sister, who are all studying. We live with our mother, who also goes to work. My father stays in the village. I started working because my family needed the money. So I looked around and landed up at this canteen.

In the canteen my job was to serve food and clean the table. I worked from 7 am to around 9-10 pm and was paid Rs.1500/- per month. On Sundays, I would get a half day off. The other days were all about work.

Now I go to a school. Since I was in class 5 when I left school and began working, I continued my education class 5 onwards and am now in class 6. I am now 15 years old as I was born on 2nd Jan 1995."

When questioned by the jury about people's behaviour towards him, Siddhu said, "*Sabhi log achche the, koi maar peet nahi, khana milta tha*" (everyone was nice, I was never beaten up and I used to get food to eat).

### **KELU from Deogarh, Jharkhand**

"My parents are labourers. The financial situation was quite bad at home and so I started working. I have a twin brother and two sisters. I used to earn Rs.200/- per month as I was only a little cattle grazer. But I was happy at my workplace and also felt protected there. Before I came to this farm I had worked for a year in one place and then for another year



**"Where should children be sent after they are taken away from their work places?"**

Siddhu, age 15 years, Goa and Kelu, age 11 years, District Katihar, Bihar

in another place. I am now 11 years old. An NGO went and spoke to my farm owner and just 15 days ago, me and my brother were released from work. Now I am even more happy as I go to a school in Deogarh and stay with my parents. I wish all children working in farms could also be happy like me”.

The NGO worker accompanying Kelu mentioned that in response to the RTI application filed by their organisation, they learnt that there is no school being run in Deogarh through the NCLP.



### **ILIJAZ, a 13 year old boy from Varanasi, Uttar Pradesh**

“I used to work in Banaras for a catering service for marriage parties and such other functions. I started working because of my ‘*majboori*’ (compulsion). My mother had died and my elder brother found me a job. I have two brothers who work in a shop and a sister who stays at home. Half of the money we all bring in goes to our *didi* (sister) and the other half is used for our studies. I always wanted to study but my family did not as there was no money at home.

I used to get paid Rs. 200/- per catering, which amounted to Rs.1,000/- to 2,000/- per month, depending on the number of opportunities. My brother had told me that I only had to fill up water (*‘siraf paani chalana hai’*), but actually I had to do everything such as washing and cleaning the plates, filling up water and cleaning up after lunch was served. If I didn’t do any of these things, my money would get cut. I worked from 12 pm to 3 am and there were other children also with me.

**“Children want to study but there is no school nearby. I ask all of you, should the Government not provide a school? No?”**

Ilijaz, age 13 years, Varanasi, Uttar Pradesh

I used to go to school regularly before I started working. In between I left school completely but have now got back to it. I am now in class 5. Sometimes I still go for work and on those days I miss my school”.

### **SANJAY, also a 13 year old boy from village Kursela in Katihar District of Bihar**

“My father was unwell for three years. His medicines used to cost the family Rs.50/- everyday, so I started working in a hotel. I have two brothers and one sister. I could never take leave as then my pay used to be cut. I worked from 5 am to 9 pm and used to get Rs.900/- a month. I also got three meals a day in the hotel itself. But the hotel owner would give lots of *gaalis* (verbal abuse). I would earn and give the money to my parents.



I used to go to a regular school and have studied up to class 4. My younger brother and sister are both studying”.

### **NAGARAJU, a 15 year old boy from village Auler, Nalaganda District, Andhra Pradesh**

“I am 15 years old. I have a brother, a sister and a mother. My father left us long back. I have gone to school and studied till class 6, but left three years back as I have been working since then. Presently I work in a hotel cleaning tables and

supplying tea from 5 am to 6 pm and get Rs. 1500/- a month. I do not cook but am supposed to do cleaning, serving and packing food for parcels. The hotel owner ill-treats us. We are scolded by customers and beaten up at times by the employer also.

My brother is 16 years old and is working too and my 18 year old sister is studying. There are about 100 children employed from my village. Five more boys are working in the hotel."

When asked how is his sister studying and not working, he said "both my brother and I are encouraging her to study and in fact she has completed her class 12 studies and we want her to go for MCA coaching. I also want to study but my family is poor and so I have to work".

### **AKASH, a 14 year old from Gwalior, Madhya Pradesh**

"I have been working in a hotel for two years and am 14 years old. I would work from 7 am to 9 pm and get paid Rs. 1500/- a month. I have two older sisters and two younger brothers. Both my sisters are married and both my younger brothers study. I studied till class 8 in a school in Dabra, where I used to stay, and then left school. Now I stay with my sister in Gwalior and work to earn for my family. My father remains unwell and my mother works in someone's house. Both my brothers stay with my parents. I do want to study if given the opportunity to do so".



### **HARSHAD aged 14 years from District Latur, Maharashtra**

I am 14 years old. I have worked in a hotel and was paid Rs. 300/- a month. One day a glass slipped from my hands and broke. My *Malik* (the hotel owner) hit me, called me names and did not give me any food. I worked for 2 months. He would make me work 12 hours a day from 6 am to 6 pm. I had studied till class 8 and am now again going to school. I want strong steps taken to stop child labour".

Harshad ended with some slogans and a question addressed to all –

***Ek, do, Baal Mazdoori phenk do. Band kara, band kara, Bal Mazdoori band kara!***  
**Do we have to come here everytime to say that this should not happen to children?**

Harshad, age 14 years, Latur, Maharashtra

### **DEEPRAJ, a 14 year old from Borivali, Mumbai, Maharashtra**

"Earlier I used to work in a canteen of a company which makes black boards. Now I do catering work in Borivali and work with 15 other children. I had a father with a disability. He used to remain unwell and so we children had to work. My mother



either irons clothes or works in people's homes. If we don't work, what will we do and how will we eat? The days we get catering work we earn Rs. 150/-, otherwise we pick bottles and get around Rs. 80/- a day. Sometimes we sleep on trains and run the risk of getting electrocuted. The police also troubles us.

I am 14 years old. I was earlier studying in a Municipal school in class 6 but now I don't go there anymore as there is no support. I am a member of a Bal Sangathan (children's group) and go to the centre for my classes. Earlier the way we were being taught here was not good. But now it is much better as we discussed this in the Bal Sangathan and went and spoke about the poor quality of education. I can read newspapers. Now I get what I want so its OK".

## **CHILDREN FROM DOMESTIC WORK**

### **POOJA, age 14 years, Lohanipur, District Patna, Bihar**

"We are three sisters and one brother. I am the eldest one and all of us work as we don't have a father and our mother has a mental illness.

Nobody wants to keep us. They say everything is so expensive so how do we feed you. We have no option but to work. We all live with a family for whom my sisters and brother work as domestic servants. They do all the household work such as *jharoo, bartan, samaan lana* (cleaning and mopping, washing utensils and getting things from the market). The owner of the house is an LIC worker and also goes for work to a *dawai ki dukaan* (medicine shop). There are three rooms in the house and we sleep with the family.

I cook food in other people's homes and get Rs. 800/- a month. We get our mother treated with the money we earn.

My age is 14 years. None of us go to school. We all want to study and want someone to help us".

### **ISRAT, age 13 years, Varanasi, Uttar Pradesh**

"My Ammi works, I also work and my father is dead. I do *jharoo, bartan* (sweeping, mopping and washing utensils) in a house and my mother does *khana banana, kaprra dhona* (cooking and washing clothes) in two houses. We are 5 sisters and 2 brothers. One of my sisters is married. I am 13 years old and I earn Rs.700/- a month. My family's expenses are met through our earnings.

I have never been to a school. There is no government school in the Khajuri colony where I stay. The government school is 5 kms. away and those nearby are very expensive and ask for Rs. 300-500 as fee.

I work from 9 am to 5 pm and am treated well by the woman for whom I work. She teaches me Arabic and also gives me food. But I want someone to help me and my brothers and sisters".

**My age is 14 years. None of us go to school. We all want to study and want someone to help us**

Pooja, age 14 years, Lohanipur, District Patna, Bihar



## **FIROZA KHATOON, age 16 years, Kolkata, West Bengal**

“I used to work in a house as a maid. The situation at my home was quite bad as there was not enough to eat. I used to get Rs. 350/- a month and I worked there for 6 months. I was in class 4 at that time. They did allow me to continue my education, so I would get back from school at 11 am and then work till 9 pm. I never really got time to study.

One NGO called Right Track removed me from the house and sent me home. The NGO taught me to put *mehndi*. I am also learning photography there. Now I get good orders for *mehndi*.

Though I am studying, there are many children who can't study and I want them to go to school too. They should also get their rights and participation. Now I am studying in class 10. If I get a big order from a Marwari's house then I earn Rs. 500-700 at a time, otherwise I manage Rs. 200-300 a day. It depends on my speed”.

## **SANA, a 12 year old victim of Gujarat Riots, Ahmedabad, Gujarat**

“Where I used to stay earlier, everything was looted and burnt. I used to live in Oorjha, District Mehsana. When people burnt our homes (during the 2002 riots), we came to Ahmedabad. Now I stay in Juhapura. My mother and I work in someone's house. My mother does *bartan* (washing utensils) and I do the *jharoo poncha* (sweeping and mopping). Ammi also cooks food. I am working in three houses and I get Rs. 150/- a month for one house, In total it comes to Rs. 45/- a month and together my mother and I earn Rs. 1200/- every month.

I am 12 years old. We are two sisters and we have one brother *jo varak banata hai mithai ki dukaan mein* (makes silver foil in a sweetmeat shop). My younger sister goes to school, while I work”.

On being asked if she wanted to study, her reply was, “*kamane se poora nahi hota isliye nahin padhna*” (We cannot manage with our earnings and so I don't want to study).

## **DURGA, age 15 years, Bangalore, Karnataka**

“I am 15 years old. I used to work in a house. I liked working there for the first 2-3 days but after that one day I broke a glass by mistake and the woman Sinjita Chakravarty took me to the salon and cut all my hair. After we came back from there she beat me up with a plastic *jharoo* (an article used for sweeping floors) and then with a *belan* (rolling pin used for rolling chapattis – the Indian bread). The *malik's* (master's) name is Pallav Chakravarty. He was a Software Engineer.

After a month there, they used to ask me to work fast but my hands would hurt. I used to clean the house. They would not give me enough to eat and I used to eat at 2 in the midnight. One day they poured hot oil on my hands (Garam tel haat pe dala). On Christmas day, they beat me up with *chapatti belan* with no clothes on my body. Both of them used to beat me up. Then one day they pushed me down the staircase (*sirhi se laot marke giraya*). The day they hit me so bad, the police came at 5 pm. They locked me up in the balcony and did not allow me to open the door. But I was still rescued.



### **Kamane se poora nahi hota isliye nahin padhna**

Sana, a 12 year old victim of Gujarat Riots, Ahmedabad, Gujarat

Even in front of the police they hit me on the cheek and then the police took them to the police station.

The police admitted me to a hospital. My lips were badly injured due to beating and now my speech is not very clear. I stayed in that house for a year and was rescued 6 months back.

When I was young my parents died and we four sisters came to stay with our *nani* (maternal grandmother). Somebody told her to send me to Bangalore. She didn't agree but the man said that he will take care of me. This man used to work at the house where I started working.

Now in Bangalore I do talk to my *nani* and I stay in a hostel run by AFSA, a Child line NGO that brought me here. Now I study in class 6. I learnt speaking Hindi from T.V."

### **DEEPALI, Nasik, Maharashtra**

"In my house, I have my mother, an older brother, 4 sisters and a *dadi* (paternal grandmother). One of my sisters is married. I am the third one. My mother and I used to go for work to someone's house. I would do sweeping and mopping (*jharoo-poncha, bartan*) and washing utensils, while my mother used to wash clothes. I worked there for one and a half years. I was paid Rs.350/- a month and my mother got Rs.250/-. Together we earned Rs.600/- in a month. Now I don't work anymore and go to school".



### **GOINDI, age 17 years, trafficked from Jharkhand to Delhi**

"I came from Jharkhand to Delhi. I was brought here for work. *Bua* (father's sister) kept me in another village for 2 days and even a friend came with me who had not informed her parents. My mother also knew that I was being taken away for work. Aman, a boy brought us to Delhi and we arrived in Delhi on a Wednesday. He took us to a placement agency and I started working in a house Thursday onwards. Madam kept me nicely for two months but in the third month, she jumped on my feet wearing sandals, pulled my hair, took off my clothes and said, '*guard ke paas chalo*' (let me take you to the security guard). At the slightest mistake, I would be threatened that she would take me to the security guard.

With long nails she would scratch my cheeks and not give me any breakfast. I used to be hungry. So while kneading the dough, I would hide some for myself and also at times keep away uncooked rice to eat when everyone would go to sleep. I would eat at 6 am and then at 2 am every night.

The old man did nothing and his son used to work in an office. They used to stay near the airport. They had gone away for 4 days and dropped me at Madam's *nani's* house. When she brought me back I ran away. I was lost for some days and stayed with beggars on the road. Then one police aunty found me. Now I stay in a hostel".



I

### **JAYANTI, age 13 years, Bangalore, Karnataka**

“My village is in Tirunelveli, Tamil Nadu but I have come from Bangalore, Karnataka. My parents died. I was ill treated by my own aunt in Tamil Nadu, so my brother who was in Bangalore called me there. I have been in Bangalore for one year. I used to work in a bank employee’s house. They promised to educate me but didn’t do that. I worked there for a year. The employer used to beat me up and when I would tell my brother, he too would abuse me on the phone. I used to work till late but never used to be fed. They would give me left overs from the food they served their dog and that too in an ashtray full of ash. Sometimes they gave me food in the toilet. I got boils on my body and they did not want to keep me there. They gave me 5 rupees and asked me to go away. They also put a theft charge on me and hit me on the head so badly that I got a big hole in my head. They took a picture of me on their cellphone and then slapped the theft charge on me. I was admitted to the Manipal hospital for 3 months. Nobody came to visit me, not even my brothers. I have three brothers and one of them works in Mumbai.

I am 13 years old and am now studying”.

### **GEETA, age 15 years, Cuttack, Orissa**

“My father used to be a rickshaw puller but then he got sick and he was told to stay at home and not to do any strenuous work. Mummy and I used to work in a house. We are 4 sisters. My employer would hit me when I didn’t do proper work and one day she threw me out.

Our family was in a poor financial condition and so I started working at a brick kiln where I used to pick up the bricks. A lot of other children also work there. I used to be paid Rs. 10/- per day. I used to work from 12 pm to 5 pm.

One NGO approached my father to let me study. I also wanted to go to school but my father told them that he could only teach one child and studying would not really change my fate and would not provide me one meal a day. I decided to work in order to let my sister study. There is no school near my house. But now I am in class 9 and walk 4-5 kms. to school everyday.”

### **VIJAY, age 16 years, Delhi**

Instead of talking about himself, Vijay summed up the deposition as follows:

“I welcome everyone and would like to say that those who work in homes don’t get to tell anyone about the problems that they face though children who work in *dhabas* still get the chance to do that with the customers who come there. *Bal mazdoori* (child labour) goes beyond this and encompasses working in the railway stations, *koorra beenana* (rag picking) etc. How will it end? If we don’t talk about this, it will not finish.

**I welcome everyone and would like to say that those who work in homes don’t get to tell anyone about the problems that they face though children who work in dhabas still get the chance to do that with the customers who come there. *Bal mazdoori* (child labour) goes beyond this and encompasses working in the railway stations, *koorra beenana* (rag picking) etc. How will it end? If we don’t talk about this, it will not finish.**

Vijay, a 16 year old boy from Delhi



After the children’s depositions, the floor was opened to all for their comments and feedback while the jury deliberated over the depositions to arrive at a decision.



We have heard that the Police officers inform the employer beforehand and this leads to problems in the rescue operations. This information has come to us from Maharashtra. Also, the children may be rescued by the Labour Department, but their rehabilitation is part of the Department of Women and Child Development. Would the officials present from Delhi like to say something...

**Mr. MM Vidyarthi, Delhi Commission for Protection of Child Rights (DCPCR)** — The Dilli Baal Adhikar Ayog (DCPCR) has a special cell in Delhi to rescue such children and get them to study. However, not many are rescued from the domestic sector and even the penalty recovered by the Labour Department is low, but presently we are trying to come together and strengthen systems in Delhi.

**Ms. Mamta Sahai, Chairperson, Child Welfare Committee, Mayur Vihar** — Since the time of the 15th July 2009 judgement of the Delhi High Court, there has been a lot of rescue of child labour but not many have been from the domestic sector. Also there is no adequate and appropriate rehabilitation of these children. We have to strengthen the rehabilitation process. Poverty is a major problem. Delhi has a good system but we have children from other states too and the situation seems quite bad there. We need to ensure that the NGOs there are registering their cases and we all need to work together.

**Sub Inspector Virender Singh, Police Station Chanakyapuri** — I feel bad having heard all this today but I do feel that the situation in Delhi is better than the situation in other states. Poverty has to be targeted and every state needs to make it an issue they would want to

target. We need to implement the JJ Act, Child Labour Act and also we need more agencies to implement them. The Police needs to be sensitized and more coordination is required.

**Mr. Gurmukh, Labour Department, North East District, Shahdara** — Many children have been rescued from the *zari* work. The problem is that we don't have the required infrastructure from the Government and the means to rescue such large numbers of children, not even a car or enough personnel to present the rescued children before the CWC. Without any police cooperation it is difficult to make things happen. Even filling the daily diary gets to be difficult task and without that we cannot present the children before the CWC. The NGOs should do proper monitoring at the railway stations as well as check further about the situations in the States from which the children come to Delhi. We would want all the different stakeholders to come together. Many complicated questions arise such as — what about a child's rehabilitation? You are right that the conviction rate is low because we all see child labour as a societal problem and not as a crime and that is why there is a problem. We reduce it to poverty. As you all have been saying, if poverty is there then isn't it also a consequence of child labour? Can we tell children to forget their childhood? We need to figure out as to how to return their childhood to them. We have to give them a protected childhood. We need to figure out those *upays* (strategies). As of now, child labour is not a cognizable offence. Why is it like this? Trafficking law is there but there are no laws to deal with trafficking for child labour. The problem needs to be treated in a holistic manner.

## From the Jury...

**Mr. Arvind Kejriwal (Jury Member)** - While the formal verdict of the jury is being prepared I wish to state that I felt very bad hearing all of this. What I am saying is truly heartfelt. I must apologize as we all are culprits in this because of which the children are not able to study and are forced to work. We are all at fault here. When a rickshaw puller asks for 10 rupees, we give him 8 rupees, when our maid asks for more money, we don't give it to her and the driver gets rupees 3000 which is not enough to pay for a rented home in Delhi. Fifty percent of us get baal mazdoori (child labour) done in our own houses. We all must leave this hall thinking that we will not allow child labour and we need to ensure that those who are working in our homes study and we should take care of them. The helper in our house talks to a whole lot of other people and tells us things society does. Our society has more



<http://in.news.yahoo.com/20/20100516/1416/tnl-three-years-on-child-labour-ban-remains.html>

PTI

### Three years on, child labour ban remains on paper

Sun, May 16 09:01 AM

Saroj Kumar Pattnaik New Delhi, May 16 (PTI) Goindi, a 14-year-old from Jharkhand, used to eat dough and raw rice in the middle of the night stealing from her employer's kitchen here. Durga, 14, was beaten up and kept without food and clothes through out the day for her every innocent mistake at the house of a software engineer in Bangalore.

Geeta, 13, had to turn about 1,000 bricks at a kiln in Orissa for a meagre Rs 10 every day for more than six months. What these children have in common is that they are among the fortunate few who have been rescued and having the opportunity to go to school.

But, there are thousands others who are spending most of their time in factories, shops, roadside eateries or at their employers' house as domestic help. In October 2006, the government amended the Child Labour (Prohibition and Regulation) Act 1986, enforcing a complete ban on employment of children under the age of 14.

Despite the ban, employment of children continues unabated and is still seen as a social practice rather than a crime, a national social audit on child labour has found. It also found that enforcement of the existing law has been tardy and the society at large has been insensitive towards the sufferings of children and their rights.

"We all are guilty. The whole country is guilty for the sufferings that the innocent children are undergoing," said Magsaysay award winner Arvind Kejriwal during a national hearing held here over the social audit.

"We all should look into ourselves and find out how we are directly or indirectly encouraging child labour," he said, after listening the heart-wrenching stories of several child workers, rescued from different places of the country. The event was organised by Campaign Against Child Labour (CACL)

intelligence than the formal agencies. Vimla Ramachandran raised this issue about violence faced by the domestic help at a meeting of a Residents' Welfare Association (RWA) but the RWA turned around and said that it was not their mandate. Those who do this to children are mentally sick and we need to make this a cognizable offence.

Firstly, let's double the salaries of our employees, secondly, let's change the law and make this into a cognizable offence and finally, let's create examples with the Government officials taking more responsibility and this should be despite the infrastructure limitations we all have to work with.

**Advocate Ashok Arora (Jury Member)** – I have been working in the court for the last 30 years but for the first time children and the organizers of this programme are ordering

us all. I would like to congratulate all the children for having spoken so well with so much confidence. In Delhi, there are 50,000 child workers but in the rescue operations only 23 have been rescued. The jury feels concerned and feels that this gap needs to be addressed and there needs to be better accountability. Also, offences should be made cognizable as it is the educated people who are committing such offences and they should be punished. People at large need to be sensitized about the laws through workshops, television etc.

**Mr. R. K. Raghavan** also congratulated children for bravely sharing their stories and drawing attention to the problems they face. He expressed his happiness to be part of such an endeavour and shock at the appalling state of affairs. He read out the verdict of the Jury as follows:

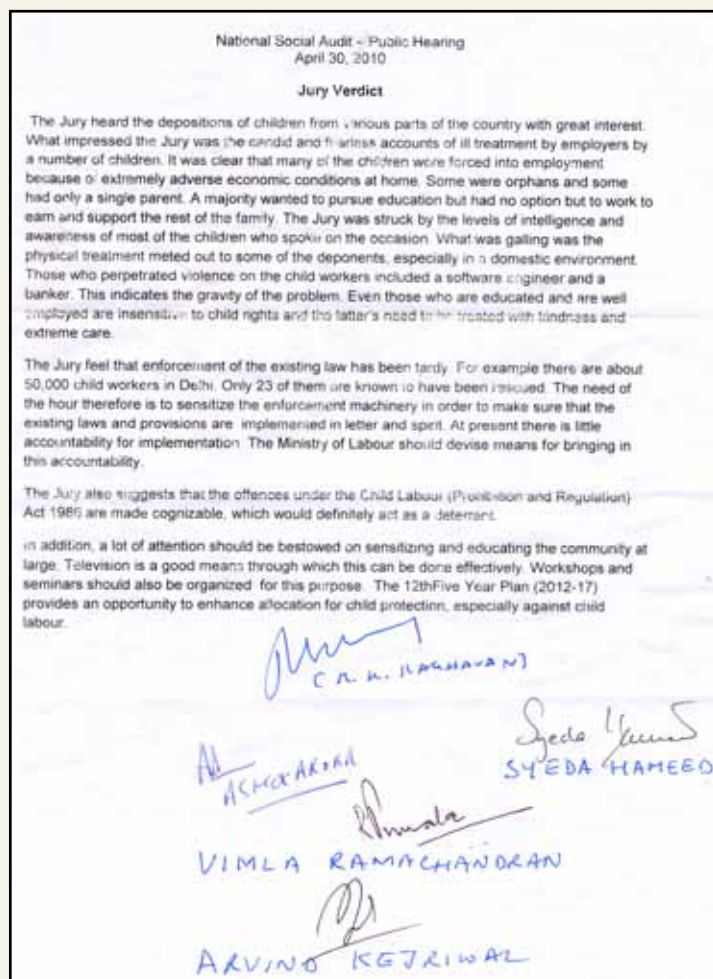
The Jury heard the depositions of children from various parts of the country with great interest. What impressed the Jury was the candid and fearless accounts of ill treatment by employers by a number of children. It was clear that many children were forced into employment because of extremely adverse economic conditions at home. Some were orphans and some had only a single parent. A majority wanted to pursue education but had no option but to work to earn and support the rest of the family. The Jury was struck by the levels of intelligence and awareness of most of the children who spoke on the occasion. What was galling was the physical treatment meted out to some of the deponents, especially in a domestic environment.

Those who perpetrated violence on the child workers included a software engineer and a banker. This indicates the gravity of the problem. Even those who are educated and are well employed are insensitive to child rights and the latter's need to be treated with kindness and extreme care.

The Jury feels that enforcement of the existing law has been tardy. For example, there are about 50,000 child workers in Delhi. Only 23 of them are known to have been rescued. The need of the hour therefore is to sensitize the enforcement machinery in order to make sure that the existing laws and provisions are implemented in letter and spirit. At present there is little accountability for implementation. The Ministry of Labour should devise means for bringing in this accountability.

The Jury also suggests that the offences under the Child Labour (Prohibition and Regulation) Act 1986 are made cognizable, which would definitely act as a deterrent.

In addition, a lot of attention should be bestowed on sensitizing and educating the community at large. Television is a good means through which this can be done effectively. Workshops and seminars should also be organized for this purpose. The 12th Five Year Plan (2012-17) provides an opportunity to enhance allocation for child protection, especially against child labour.





## CHILD RIGHTS

### Audit shock

PURNIMA S. TRIPATHI

A social audit on the working of the ban on child labour in the domestic and hospitality sectors reveals a sorry state of affairs.

LIKE any normal child, Ilyas from Varanasi, a 13-year-old, wanted to go to a regular school and become an important man some day. But poverty forced him to start working at an eatery for Rs.200 a day so that he could feed his younger siblings. He, however, continues his studies as well and is in class V. But his naive question stupefies all who hear it: "Shouldn't the government help children like us to go to a school without working?" Sanjay from Kursela, Bihar, has not been so lucky. Almost the same age as Ilyas, he had to give up studies after class IV, when his father took ill, to take care of his three younger siblings. He earns Rs.900 a month, gets free food and supports his two younger brothers' education. Fifteen-year-old Nagaraju from Alwara village, Nalgonda, Andhra Pradesh, works as a cleaner at a hotel for Rs.1,500 a month plus abuses and beatings. This poor boy supports the education of his elder sister, who has completed her intermediate and is planning to go for higher studies. His sister's education, he hopes, will one day end

his troubles. Pooja, 13, from Lohanipur, Patna, cooks for a living and earns Rs.800 a month. Her three siblings work for food. She supports her mother, who turned mentally unstable after her husband abandoned her. These heart-wrenching tales of real children were narrated at a public hearing on the working of the ban on child labour in the domestic sector and in the hospitality industry, which has been in force since October 2006. The public hearing, which was held in New Delhi on April 30, was the culmination of a nationwide social audit. Looking at the sorry state of affairs in the country as far as child rights are concerned, one can see why there is an anguished cry for justice for children. The social audit, carried out by the Campaign Against Child Labour (CACL) and the Campaign Against Child Trafficking (CACT) in association with over 30 non-governmental organisations working for child rights, covered 12 States - Andhra Pradesh, Bihar, Delhi, Goa, Gujarat,

Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, West Bengal and Uttar Pradesh. It brought out a mind-boggling, countrywide tale of apathy, insensitivity and indifference. Quoting official sources such as the Office of the Registrar General and Census Commissioner, India, the social audit report puts the number of children employed in the domestic sector at 1.86 lakh rescued 474 and 1,404 children respectively. Delhi, where roughly 50,000 child workers are engaged in these two sectors, four children were rescued in 2006, 91 in 2007, 33 in 2008, and no figures are available for 2009. In Jharkhand, only 12 children from domestic sector and 15 from the hotel industry have been rescued since 2006. Madhya Pradesh simply gave no information. It was discovered by those carrying out the audit that either the States did not have the information or they did not want to divulge it and, therefore, kept shunting the auditors from one department to another. On the basis of the meagre information received from the States (only 10 out of 12 responded), the auditors figured out that out of a total of 5,096 children rescued since October 2006, only 3.04 per cent of the children were reported to be from the domestic sector and the rest were from dhabas and roadside eateries/hotels. The figures for the number of children rehabilitated are equally dismal. "This speaks volumes about the attention being paid and in the hospitality industry at 70, 934. In all, over 2.56 lakh children work in the domestic and hospitality sectors. Unofficial sources, however, put the figure at around 20 million. Compared with the enormity of the problem, the response of the authorities to the social audit was poor, even hostile, the report says. This is evident from the figures given of the number of children rescued in various States since the ban came into effect. Andhra Pradesh, which was more forthcoming with information than other States, rescued five children in 2006, 97 in 2007, 242 in 2008 and 62 in 2009. Bihar, which gave the figures for 2008 and 2009 only,



A young boy working as a cleaner at a restaurant in Thiruvananthapuram.



Children working for a brick maker in Khammam district, Andhra Pradesh.

### VOTE OF THANKS ON BEHALF OF CACL AND CACT...

CACL and CACT thank you all for being here. Children have come today from 12 states and they now realize that till they don't speak nobody will hear them, and this is how they will get their rights. CACT and CACL thank the Police, the Labour Department, the CWCs, members of various organisations who have come here, the volunteers who joined hands at making this event a success, media and all who have supported the audit directly and indirectly. We wish to express our special thanks to the Jury Members and media, for providing strength to the social audit process. Finally our funders deserve a special mention for having supported us to make the audit possible. We thank terre des hommes (Germany), NEG FIRE, Christian Aid and Centre for Education and Communication.

## Conclusion

In 1997 the International Conference on Child Labour, jointly organised by the Government of Norway, UNICEF and the ILO in Oslo acknowledged that poverty is both a consequence and a cause of child labour. The Agenda for Action adopted at this Conference clearly stated that preventive measures are the most cost-effective means of eliminating child labour. It also stressed the role of social mobilisation in the movement against child labour. We, as a nation have failed to address both these aspects.

The failure to see and take into account the link between political, economic, social and cultural factors that combine to create phenomena such as child labour points to the non-seriousness of both government and civil society towards tackling the problem in a sustainable manner.

None of the child labour programmes have been able to ensure convergence of services and coordination between the various Ministries with an aim to help the families of rescued children with suitable livelihood options. The results from RTI applications collected in the course of this social audit reveal that even the relief assistance of Rs. 5,000/- that is meant to be given to families of rescued children as per the Supreme Court judgement in MC Mehta vs. State of Tamil Nadu and Others has been denied to them.

More and more children are being trafficked within and across borders both within the country and outside for labour. It is well documented by now that these children usually belong to families deprived of livelihood opportunities, security and even the most basic of social benefits, and are thereby forced to migrate to urban centres in the hope of finding some means of survival.

Employment opportunities with minimum wages are still a distant dream for the poor and legislations such as the Interstate Migrant Workmen's Act are forgotten by all. It took India more than 60 years to recognize the millions engaged in the unorganized sector and look into their problems. Even now, the Unorganized Sector Workers Social Security Bill finalised by the ruling UPA government in 2007 is lacking on many counts.

On social mobilization, the focus has been primarily on the supply side. Here too, efforts made to engage PRIs and communities in ensuring that children do not get out of school and into work are few and sporadic. The demand side is not addressed by any Government campaign or awareness

drive. Only recently, people with Airtel connections have been receiving some messages from the Labour Ministry/ Department carrying information that employment of children under 14 years of age is an offence. This was always known to people. In fact in case of child domestic workers, even before an official notice came into force on 10th October 2006 banning employment of children under 14 years as domestic helps, people used to believe that it was illegal. Yet the practice was common then and even today! The mindsets do not change, and certainly not when Ministers feel there is nothing wrong in employing children and judges too fail to know the law or use it for the child.

#### **EVEN THE JUDICIARY FAILS TO UNDERSTAND AND PROTECT A CHILD'S RIGHTS**

12 year old Kanti (name changed), another name from the annals of unhappy children toiling in households, was wiping an exhaust fan precariously balanced on the kitchen shelf when he had a fall. He broke his leg. The CWC and the NGO intervention helped to draw attention to the case. In a curious case of lack of clarity on the part of the law enforcers the case booked against employee was one of negligence and not of child labour. Kanti is tossed from court to court but the child labour act does not come to his rescue.

***As a nation committed to protection of children's rights we need to take a call on the following...***

#### **Is Child Labour a concern relating to Child Protection or Labour Welfare?**

Child labourers are children in need of care and protection. That is what our Juvenile Justice (Care and Protection of Children) Act, 2000 clearly lays down. But the Labour Ministry continues to deal with the issue of child labour by way of regulating it in some sectors and limiting its role to rescue of children from hazardous sectors only. The approach indeed is one of dealing with yet another labour welfare issue and penalizing the defaulting employers more than protecting children's rights. Rehabilitation of rescued children and follow-up have come to be the primary responsibility of the Child Welfare Committees falling under the purview of the Ministry/State Department of Women and Child Development. At least on the ground this is true for most children rescued from domestic sector and dhabas/eateries. A child protection lens clearly calls for shifting the

child labour issue from the Labour Ministry to the Ministry of Women and Child Development.

The decision as to whether child labour is a child protection issue or a labour welfare concern has long been evaded. The need of the hour is to address it as part of children's right to protection and that is what must determine the future course of action.

#### **Why is child labour still not recognized as a cognizable offence under the Child Labour (Prohibition and Regulation) Act, 1986?**

Unfortunately, even today child labour is not recognized as a cognizable offence under the Child Labour (Prohibition and Regulation) Act, 1986. This results in a very low rate of prosecution of offenders as is found through the RTI responses and Ministry's own records. Recognizing child labour as a cognizable offence would lead to shift in the approach of the authorities concerned and citizens at large. The criminality of the offence would get acknowledged and the focus is more likely to shift from treating it as a mere cultural and social practice to treating it as a crime against children. The reason why the National Crime Records Bureau does not provide information on offences relating to child labour as part of the Crime Records it publishes every year is precisely the absence of child labour being recognized as a cognizable crime.

#### **Can all children in the 6-14 years age category enjoy the right to education guaranteed by the Constitution of India if the child labour law continues to allow for regulation of working conditions in some sectors?**

Even as the 86th Constitutional Amendment makes the Right to Education for all children in the 6-14 years age group a Fundamental Right, the Child Labour (Prohibition and Regulation) Act, 1986 allows children to work by making a distinction between prohibited and regulated occupations. This dichotomy needs to be corrected, especially as the Centre and the states now have to implement the Right to Free and Compulsory Education Act 2009. The matter is pending before the Supreme Court of India in the form of a PIL. Any delay in addressing the contradiction between the education law and the child labour law would amount to violation of children's rights and injustice to some children who would continue to work, even if it is to be under regulated conditions.

## Can the labour inspectors enter households to rescue child domestic workers if household is not defined as an industry?

As mentioned earlier, household is still not defined as an 'industry' nor is it a shop or an establishment under any of The Shops and Establishments Acts that apply in various states. Yet inclusion of domestic work in the list of hazardous occupations has imposed a duty on the Labour Departments to rescue children in this sector. Such dichotomies in the existing labour laws need to be addressed immediately in order to ensure that children in the domestic sector do not remain invisible and are adequately protected.

## Investing in Child Labour Elimination Programmes

According to the Annual Report of the Ministry of Labour and Employment, 2008-09, of the 2 million children working in hazardous sectors, the 9000 NCLP schools being run in the country have an enrolment of only 0.45 million. The report further shares that till date, ever since the National Child Labour Project (NCLP) was initiated in 1998 to rehabilitate working children released from hazardous sectors, only 0.48 million working children have been mainstreamed to regular education under the said Scheme.

While this too makes out a case for shifting the issue to an appropriate Ministry, it also highlights the need for adequate financial investment.

As much as we may debate the real numbers of children employed in hazardous sectors, the fact as seen from the RTI responses is that NCLP does not reach out to most children rescued from domestic sector and dhabas/eateries/hotels. Neither did the INDUS Project cater to these children. In

### US INVESTS \$20 MILLION TO ELIMINATE CHILD LABOUR IN INDIA

Agencies

Kolkata

2008, June 10: ... "The US Labor Department has contributed 20 million dollars to the INDUS project, the largest programme ever supported by the department outside the United States, which aims to ensure child labour elimination from hazardous industries in 21 districts," ...India has also contributed 20 million dollars for the project.

that case where is all the money being put into such flagship programmes and schemes going? Who are the children benefitting?

State Governments are often heard stating that if children from these two sectors are rescued, how will they get rehabilitated? Moreover, as RTI responses have shown, since the NCLP hardly caters to children rescued from the said two sectors, others ways of rehabilitating such children have to be determined and included into Programme Planning.

Inadequate investment and poor implementation of government's programmes and schemes as well as the Supreme Court judgement indeed calls for action. Revamping the existing child labour elimination programmes and investing adequately in new and more holistic and needs based interventions is the need of the hour.

## Need for Child Tracking Systems and Coordination

While the RTI response from the Labour Department suggests rescue of 23 children from the domestic sector between 2006 and 2009, response from the Child Welfare Committees in Delhi shows that 123 child domestic workers were produced before the Committees in this period. The data maintained by the Labour Department may certainly be questioned on this point. But looking beyond the problem of data management is the clear evidence of lack of coordination between the Labour Ministry and the Ministry of Women and Child Development, latter being the administrative authority responsible for the Child Welfare Committees.



### Cases of child domestic workers brought before three CWCs in Delhi

Year	No. of child domestic workers produced before 3 CWCs in Delhi		
	CWC Lajpat Nagar	CWC Nirmal Chhaya	CWC Mayur Vihar
2006	NIL	NIL	NA
2007	16	NIL	NA
2008	11	40	NA
2009	07	16	33

Coordination between these Ministries and the Police and NGOs too is poor as can be seen from the records of cases reported by three NGOs in Goa to the police, which are nowhere in the records of the labour department.

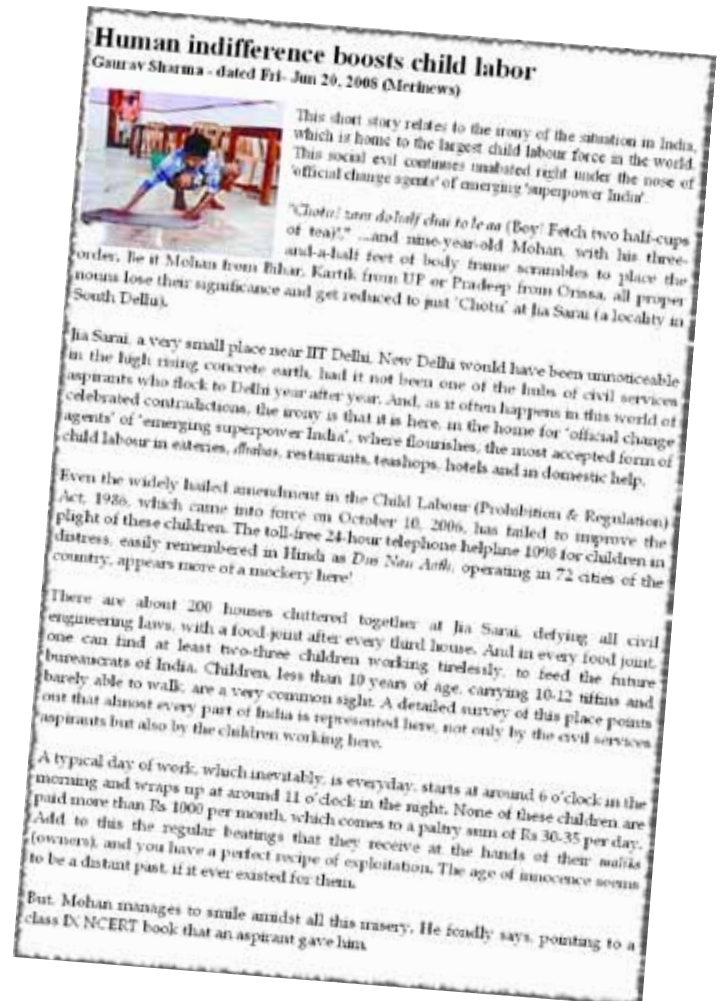
### Data on child labour in the domestic sector and in restaurants, eateries & bars as per cases taken up by 3 organisations in Goa between 2006 to 2009

Year	No. in domestic sector	No. in eateries	No. in bars	Total domestic + eateries+ bars
2006	3		1	4
2007	12			12
2008	13	4		17
2009	10	12		22
Total	38	16	1	55

It may well be concluded that there are many child domestic workers that are not being rescued by the Labour Department. We do not know if the information about cases of child domestic workers received by the CWCs is being shared by them with the Labour Department for ensuring prosecution of offenders, but that must be ensured if the notification banning employment of children as domestic workers is to have any significance at all.

### Need for a legislative provision to license and regulate placement services

Almost all agencies placing women and children as domestic help claim to be registered with the government. However, there is no law under which such agencies operating within the country can be registered. Only agencies that send workers abroad are required to be registered and hold licenses. There is no provision in the Inter State Migrant Workmen's (Regulation of Employment and Conditions of Service) Act, 1979 to register agencies that provide domestic workers. This has allowed them to function as a strong nexus and increased trafficking of children for labour. All laws for children need to provide for addressing the issue of child trafficking as well as prosecuting the middle-men and suppliers of minors.



## PLACEMENT AGENCIES IN DELHI

Neetha Narayana Pillai from the Centre for Women's Development Studies estimates that there are 500 small and dispersed placement agencies in Delhi.

The Indian Social Institute survey includes a directory of 181 agencies operating in the city.

According to the Bachpan Bachao Andolan, there are 2,400 agencies in Delhi but an RTI application to the Labour Department revealed that only 24 were registered with them!

The Shramjibee Mahila Samity (SMS), an organization based in West Bengal, which investigated complaints about trafficking of children for labour, says that, the number of placement agencies in Delhi ranges from 400 to 3,000.

Almost all agencies claim to be registered with the government. However, there is no law under which such agencies operating within the country can be registered. Only agencies that send workers abroad are required to be registered and hold licenses. There is no provision in the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to register agencies that provide domestic workers.

They are registered "Under Partnership Agreement" which means nothing.

*Source: Anjali Deshpande and Sujata Madhok, CHILD DOMESTIC LABOUR IN DELHI, Centre for Education and Communication, 2010*

### **Can we afford to justify child domestic work on grounds of poverty, poor conditions of their family and thus their need to work and add to the family income?**

Poverty is undoubtedly an important factor pushing children into the labour force, but -

- Firstly, it is not the only factor;
- Secondly, poverty goes beyond low income and is about different forms of deprivation which limit people's access to resources of various kinds and inhibit their ability to participate fully in economic, political, social and cultural life; and,
- Finally, while poverty creates the conditions for child labour, child labour pushes most working children to an unskilled life with no schooling, which further traps them and future generations in continuing poverty and illiteracy.

In 1997, the International Labour Conference held in Oslo had recognized that poverty is both a cause and effect of child labour. In 2006 once again UNICEF tried to draw attention to the same in its 2006 report on The State of the World's Children, where it stated, "Poor children are more likely to be engaged in labour, which could mean missing out on an education and, as a result, on the opportunity to generate a decent income that would allow them to escape poverty in the future."

Yet we tend to blame poverty for our inability to address the problem and protect our children. A development model based on privatization, liberalization and globalization, is only adding to the existing numbers of poor as well as widening the gap between the rich and the poor. How long then are we going to use the poverty argument to let children be deprived of their childhood?



## According to the Ministry of Labour and Employment...

### Constraints in achieving the Targets in respect of objective 3 – Eliminating Child Labour from hazardous occupations and processes:

1. Enrollment of children in Special Schools for child labour withdrawn from hazardous occupations and processes depends on the survey conducted by the NCLP Societies within the parameters laid down in the NCLP Scheme and also availability of sufficient numbers of such children for a particular school.
2. There are many children who have attained the age of fourteen years prefer to opt for employment/self-employment instead of opting for continuing their education.
3. Different States follow different curricula considering the local conditions. To adopt similar curricula in the NCLP Schools located in a particular State, initiative has to be taken by the State Labour Department in consultation with State Education Department. It has to be taken into consideration that the children enrolled in the special schools belong to a special category with either no or negligible educational background and will not be in a position to adapt to the normal educational text books prescribed in the schools in a particular State. Further, this will require convergence at various levels.
4. The welfare schemes of the Government of India operated by various Ministries/Departments, has a target group on which the scheme is applicable and to provide benefits to the child labourers and or their families, the schemes may require modifications. To modify the schemes, approvals of various Government agencies, such as Planning Commission, Expenditure Finance Committee/State Finance Committee, are required. This may take time varying from 3 months to 2 years. As is known that child labour is an off-shoot of poverty and as per moderate estimates there are 30 crore person living below poverty line in India and to reach out to even ten per cent of this populace needs gigantic effort.

Source: Results Framework Document (RFD) for Ministry of Labour & Employment (2009-2010)  
Available at <http://labour.nic.in/reports/RFMS.pdf>

Press Information Bureau  
Government of India  
Monday, March 08, 2010

Ministry of Labour & Employment

### AMENDMENT IN CHILD LABOUR ACT, 1986

15:33 IST

LOK SABHA

A Working Group was set up to suggest amendments, if any, in the Child Labour (Prohibition & Regulation) Act, 1986. It was headed by Shri S.K. Srivastava, the then Joint Secretary in the Ministry of Labour & Employment. The Working Group has submitted its report and the major recommendations are as under:

- i) The existing definition of child as a person who has not completed 14 years of age may continue.
- ii) Setting up of special courts to trial child labour cases.
- iii) To include education of child labour in addition to health and safety already provided under the Act.
- iv) Specific provisions for offence of trafficking of children for labour.
- v) Compounding of offences and enhancement of penalties.
- vi) Provision of power to search and seizer under the Act.
- vii) Retention of proviso to Section 3 of the Act allowing children to work under the parental care.

International Labour Organization ILO Convention 182 concerning Worst Forms of Child Labour and ILO convention 138 fixing Minimum Age of Employment as 18 years have not been ratified as these would be possible only after the legislative framework and mechanism for their effective implementation are in place. Further, due to the existing socio-economic conditions in the country, compelling conditions force these children to seek employment to supplement their family income and under these circumstances increasing the minimum age of employment from 14 to 18 years may further push these poor families into poverty.

The Minister of State for Labour and Employment Shri Harish Rawat gave this information in written reply to a question in the Lok Sabha today.

YSK

## 'Implementation of ban on child labour needs a close look'

Staff Reporter

**VIJAYAWADA:** State convener of the Campaign Against Child Labour (CACL), a social organisation committed to the eradication of child labour, has issued the need for serious implementation of the government's ban on child labour. Addressing a regional conference of the CACL here, Ramamohan said that a close look at the ground realities prevailing even three years after the implementation of ban orders would provide a clear picture of the ban orders. He said the government is seriously concerned about the protection of child rights and

inciding with the third anniversary of the government ban on the child labour, the organisation has joined hands with non-governmental organisations like CACT & MV, IAF, Sanjog-Bahin, and HRLN, to conduct an audit on implementation of the ban orders. The audit will be completed by October 25 to

lobbying and monitoring of national and international developments.

The audit will gather information about the efforts made at various levels, both by the Government and the civil society. The findings of the audit will be shared with the State Government and other bodies such as the National Commission for Protection of Children's Rights for further action.

The conference was attended by the organisation's Krishna district convener N. Rao, regional convener I. Srinivasa Rao, convener of the Guntur chapter of CACL B. I. Rao, State coordinator S. Subba Rao and others.

### Call to curb child labour

**VIJAYAWADA:** The Campaign Against Child Labour (CACL), Andhra Pradesh, has issued a call to the government to take a close look at the ground realities prevailing even three years after the implementation of ban orders. He said the government is seriously concerned about the protection of child rights and





# GLIMPSES FROM CHILDREN'S CONSULTATION

29 April, 2010

National Bal Bhavan, New Delhi







### **About CACL**

CACL- the Campaign Against Child Labour, launched in 1992, is committed to eradication of child labour through building public opinion, investigation of abuse/ exploitation, advocacy, lobbying and monitoring of national and international developments. The campaign believes in networking and alliance building with other like-minded groups. It intervenes in specific cases of violation of child rights and abuse of children and initiates relevant advocacy and lobbying to restore justice and rights of the child.

### **National Contact:**

Mr. Prabir Basu  
National Convenor  
Campaign Against Child Labour (CACL)  
C/o, SPAN - Society for People's Awareness  
P-733, Block - A (Ground Floor), Lake Town,  
Kolkata – 700089 India  
Phone : (0)9331992897, (0)9239314238  
Email : [caclcs@yahoo.com](mailto:caclcs@yahoo.com), [caclcs@caclindia.org](mailto:caclcs@caclindia.org)

### **About CACT**

CACT - the Campaign Against Child Trafficking, launched in 2001, envisions a world where children are not seen as commodities to be bought and sold in the open market and their dignity is not compromised. Its Mission is to STOP CHILD TRAFFICKING. CACT has since its very inception looked at every form and purpose of trafficking in children and voiced the need for a holistic perspective and planning.

### **National Contact:**

Ms. Bharti Ali  
Campaign Coordination Office  
C/o HAQ: Centre for Child Rights  
B-1/2 Malviya Nagar, New Delhi - 110017 India  
Tel: +91-11-26673599  
Telefax: +91-11-26674688  
E-mail: [cactindia@gmail.com](mailto:cactindia@gmail.com), [cactdelhi@gmail.com](mailto:cactdelhi@gmail.com)