

To  
Dr. P.D. Shenoy  
Secretary, Ministry of Labour,  
Government of India  
New Delhi

## **Memorandum to the Government of India to include Hotel Industry and Child Domestic Workers in the Child Labour (Prohibition & Regulation) Act, 1986.**

### **Campaign Against Child Labour**

The Campaign Against Child Labour (CACL) is a national network with a membership of 5000 organisations and concerned individuals actively working towards the eradication of child labour in 16 States of India since 1992. CACL members include NGOs, trade unions, women's organizations, lawyers, academic & research institutions, media agencies, student volunteers etc.

CACL defines Child Labour as children prematurely leading adult lives, working with or without wages, under conditions damaging to their physical, mental, spiritual & emotional development, denying them their basic rights to education, health and development.

CACL is against all manifestations of child labour in any occupation or process, hazardous or non-hazardous, with or without wages, within or outside family.

CACL aims at the total and immediate eradication of child labour. For CACL any work that is an impediment to the growth of the Child is hazardous.

### **Rationale**

In view of the constitutional ninety-third amendment making Education a Fundamental Right for Children in the age group 6-14 years and Article 21A, we believe it is imperative that all children are in formal school. The CACL had also proposed an alternate bill to replace the present Child Labour Prohibition and Regulation Act 1986(CLPRA) for total abolition of Child Labour in a phased manner. We hope that the government is seriously considering the said bill. In the meantime we would like to highlight two sectors that demand immediate and urgent attention.

During the recent period, we had several meetings at the Regional, State and Local levels to review the plight of Child labourers working in different occupations, processes, establishments and employments. We have found from the feed back received from the various constituents that two occupations: **Child Labour in Hotel Industry and Child domestic workers** cry out for immediate attention and appropriate action from the Central Government.

## The Two Sectors

### *Child Labour in Hotel Industry*

Child labour mostly single migrant males, are found in roadside tea shops, dhabas, hotels, bakeries and catering establishments all over the country. Children are often employed for domestic work, as they constitute a cheap labour force, are vulnerable, and cannot raise their voice against the employers. They work for long hours, are subjected to neglect, starvation, physical and sexual abuse, and are vulnerable to homosexual abuse STDs and AIDS.

### *Child Domestic Workers*

Domestic work is one of the most common and traditional forms of child labour. Domestic child workers are mostly migrant girls. The emerging Rural and Urban lifestyles, nuclear families and working couples have increased the need for domestic workers. Children are often employed for domestic work, as they constitute a cheap labour force, are vulnerable, and cannot raise their voice against the employers. Child Domestic Labour is invisible as it is confined to four walls, which makes them easy prey for physical and sexual abuse.

Some of the **pernicious characteristics** that make these two sectors amongst the worst forms of child Labour:

- Children's opportunity for the formal education is completely negated.
- Children as young as six years work in these sectors.
- Employers/agents often pay an advance to the parents of these children which is adjusted against their nominal wages or not paid at all. Often their conditions are that of bonded labour and even technically they are covered by the definition of Bonded Labour under Section 2(g) of the Bonded Labour System (Abolition) Act, 1976.
- Large number of children are known to be trafficked in these sectors.
- They are forced to work for low wages or no wages.
- The hours of work are never regulated as a result of which these children have to start work as early as 5.00 in the morning and continue to work beyond 11.00 at night.
- They hardly get rest hours and holidays.
- They hardly get time and opportunity for recreation and play.
- In both these sectors, children are under the control of the employer. All through the 24 hours, everyday of their working life, they are at the employers' beck and call.
- These children are forced to live with extremely deplorable and congested inhuman conditions with no basic amenities like toilet, drinking water and sleeping facilities and no provision for adequate food and health care.
- The lack of hygiene at the work place (which is same as living place) results in multiple health hazards to the children.
- They are targets of torture and objects of extreme physical violence.

- These children are subjected to sexual molestation, harassment and rape.
- The girl children are more vulnerable to such abuses.

### **CLPRA and Children in Hotel and Domestic Sector**

Under the Child Labour (Prohibition and Regulation) Act, 1986, there are two main parts: Part-II dealing with Prohibition and Part-III dealing with Regulation. Children are prohibited from working in all Occupations listed in Part-A and Processes listed in Part-B of the Schedule. The power to amend the schedule is vested only in the Central Government under section 4 of the Act. The Central Government can add to the schedule by notification after following due procedure.

Our demand is that both the employments mentioned above should be brought under Part-A of the Schedule by the Central Government in exercise of their power under Section 4 of the Act.

### **The Proposed Amendments**

We propose that the following amendments be introduced in the Child Labour (P&R) Act, 1986 in order to prohibit employment of children in the two employments.

1. Section 3 of the CLPRA needs to be amended. Section 3 as it stands reads as follows:

“Prohibition of employment of children in certain occupations and processes: No Child shall be employed or permitted to work in any of the occupations set forth in Part-A of the Schedule or in any workshop wherein any of the processes set forth in Part-B of the Schedule is carried on.

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

The amended section 3 should read as:

**“No child shall be employed or permitted to work in any of the occupations, establishments or employments set forth in Part-A of the schedule or in any workshop wherein any of the processes set forth in Part-B of the schedule is carried on:”**

If such an amendment is incorporated the existing proviso may even continue as it is for achieving the limited purposes of our representation.

2. Section 6 also to be amended as follows:

**“The provisions of this part shall apply to those establishment or class of establishments in which none of the occupations, establishments, employments or processes referred to in Section 3 and included in the Schedule is carried on”.**

3. Schedule to be amended as follows:

**To make the above amendment clear and complete- the Schedule also will**

**have to be amended such that the existing caption under Part -A which reads as “Occupations” must be enlarged so as to read as “Occupations, *Employments and Establishments*”.**

After incorporating the above amendments the two entries suggested by us could be inserted through an appropriate notification under section 4.

4. According to section 4, the power to amend the schedule, at present, is vested only in the Central Government.

At the very beginning of this section the words “*appropriate government*” may be substituted for the word “Central Government” thus achieving the concurrent nature of this provision. Since the word “Appropriate Government” is already defined no further inclusions/amendments are required for achieving the purpose pointed out.

**The two employments discussed above qualify for total prohibition. We trust that our representation will receive due care and attention and result in total prohibition of Child Labour in these two employments.**

**Yours sincerely,**

**Joy Maliekal  
Convenor CACL**

**Date: 23.07.02  
New Delhi**

**List of Delegates:**

Ms Nirja Mattoo, Community Aid and Sponsorship Programme, Mumbai

Mr. Arun Das, CACL Bihar

Sr. Lissy Joseph, National Domestic Workers Movement, AP

Ms. Amarjeet Kaur, AITUC, New Delhi

Mr. Joy Maliekal, CACL, Central Secretariat

Ms. Radha, CACL Tamil Nadu

Ms. Bullu Sareen, FORCES, Delhi

**Enclosures:**

1. Case studies of child labourers dead and alive across the country in Hotel and Domestic sectors.
2. Toiling Souls – Compiled report of the regional consultations on child labour in hotel and domestic sectors at southern, western and eastern levels in 2001.
3. Tabular presentation of the proposed amendments.