

National Consultation on Hotel and Domestic Labour

India International Centre, New Delhi

July 22 - 23, 2002

A Brief Report

A National Consultation on Child Labour in the Hotel and Domestic Sector was organised by the Campaign Against Child Labour (CACL) on July 22 and 23, 2002, at the India International Centre, New Delhi. The body drafted a memorandum which was submitted to the Ministry of Labour and Department of Women and Child Development, Government of India demanding amendments in the Child Labour (Regulation and Prohibition) Act, 1986 (CLPRA) so that Child Labour in Hotel Industry and Domestic Work is prohibited with immediate effect. The two-day consultation attended by more than 50 participants marked the culmination of a year long nation wide campaign to prohibit the employment of children in these two sectors. State level and regional consultations preceded it.

Inaugural Session

Speaking in the inaugural session, the keynote speaker Prof. Babu Mathew, of National Law School, Bangalore emphasised on the need to look closely at how the domestic movement had grown over the years. He acknowledged that CACL is a decade old and perhaps the most important organisation on child labour in the country but a year older is the New Economic Policy (NEP- June 1991 onwards).

NEP, he noted, has two important components. One is the stabilisation programme. When a country faces a balance of payment crisis then the mechanical formula of the World Bank, WTO and IMF is to propose a stabilisation programme and if you accept it along with it comes the structural adjustment programme. And once we have accepted that, it becomes closely related with the child labour issue. The more efficiently this structural adjustment programme is implemented, greater the risk to the children in the recipient countries in terms of numbers and the manner in which the risk impacts. Hence Prof. Mathew emphasised that it was important to take note of the linkage between the NEP and different categories of children at risk.

He also emphasised the need to classify the categories of children at risk so that policies could be formulated with respect to these categories.

In that context he made a tentative proposal, which he said was open to be tested on the ground by activists. He proposed that the first category was of child labourers.

The second, he emphasised, were street children, who are a different category and are the

biggest manifestation of the structural adjustment programme. Elaborating further he said that when the structural adjustment programme hits the rural poor, the reservoir of rural poor begins to overflow. This happens more specifically in the case of dalit agricultural labourers, poor peasants from other backward classes, ruined artisans who are largely Muslims and rural unemployed.

He further noted that if the agreement under the WTO is implemented more thoroughly, there could be greater tragedies in this sector. This means that the segment of Indian population that lives below the poverty line will experience break down of families. When this happens, children leave families and come to streets.

Hence street children is a different category and should not be hastily clubbed with child labour and expect child labour solutions will work for street children.

Speaking on the Juvenile Justice Act, he noted, that it has two categories: Child labour in conflict with law and child labour in need of care and protection. This categorisation he noted was extremely problematic.

The fourth area he mentioned was trafficking, which is spreading at a mad pace.

Further Prof. Mathew emphasised on education as an important inter-segmental linkage that can apply to all four categories. If retention of children in schools can be ensured, it can be a great preventive. But this is not easy and here there is an overlap with the philosophy of globalisation and liberalisation. Ensuring that there is a school within 2 km of habitat of every child is not enough. We subscribe to universalisation of education, hence we need to provide quality education. At the same time privatisation of education needs to be cautioned against. The model of Karnataka, where there are around 2000 hostels with schools, is worth emulating especially if families are on the verge of breakdown.

The 93rd Amendment, he observed, though is falling short of our expectations, should be welcomed and our strategies should be used effectively. Two approaches arise after we have welcomed the constitutional move. Firstly parents cannot be held responsible for children not going to schools as mentioned in Article 51 A. Schools need to be made such that they attract children. Secondly we should not hesitate in saying that the Child Labour (Regulation and Prohibition) Act (CLPRA) is an antitheses of Article 21 A.

A, we also demand that the CLPRA should be radically redrafted. It can no longer remain prohibition and regulation, as it is contradictory. We must think in terms of a child labour abolition act, the philosophy being looking at children between the age group of 0-18.

The second important linkage, which is a root linkage, is poverty.

Subscribing to universalisation of school education raises some doubts like why educate when there are not enough jobs or why does education not provide skill employment. But these doubts are always raised for the children of others. We need to ask why are children forced to stop studies at class eight or ninth. Experiences of Akshara, Lokjumbish, MVF, Pratham and many others have shown that despite poverty parents are willing to send

children to schools.

Having said that addressing the issues set up for discussions today, namely child labour in hotel and domestic sectors we must think of it as a transitory move. We welcome 21 A, want CLPRA to be converted into child labour abolition act and therefore we must think in terms of a short term as well as a long-term perspective. Child labour should be brought in the part two of the CLPRA. Technically it is easy to achieve but it would also require an amendment in the statute and cannot merely be achieved by adding it in the schedule. Till now only occupations and processes are covered and establishments, which cover the hotel industry, come under part III meant for regulations.

This means what we would want is regulation of adult domestic labour but abolition of child labour in the domestic sector. In terms of legal strategies we use the industrial dispute act for regulation of adult labour and factories act for banning child labour and factories act is one of the few pieces of legislation that has powerful provision with respect to child labour that was so as when British enacted it they had the political will to tackle it though due to other reasons like encouraging protectionism.

Hence we should member the linkage the first one as it will make the policy cohesive and the second as that is what we must always be struggling to address.

Session I

Jaya Srivastava chaired the first session in which Joy Maliekal presented a compilation of the reports of the regional consultations of the Eastern, Western and Southern levels of the hotel and domestic sectors.

Giving the context of the consultation, Joy recollected that Shiv Murugan who died in 1993 was the first case CACL took up of child labour in hotel industry. Following that CACL constituents have dealt with many cases of abuse and child labour in hotel and domestic sectors. Need was felt to take these issues seriously as there is no law to punish the employers in these two sectors. That is the reason why CACL, while accepting that any child out of school as a child labour, is taking up the issue of child labour in these two areas in particular.

The three regional consultations concluded that with regards to child labour in these two sectors there was: lack of proper legislation, no wages, unhygienic living conditions (those working in domestic sector are often kept where dogs are kept and those in the hotel sector near the kitchen), lack of health facilities, lack of education facilities, exploitation and torture and physical and sexual abuse.

Action suggested to be taken for eradication:

- Direct Interventions
- Community awareness
- Legal interventions

- Advocacy and network

Programmes that came out of the consultations:

- Enumeration of child labour
- Reform of child labour act
- District and state level public hearing with focus on child labour in these two sectors
- Long term awareness to the public through media.

Remedies and Alternatives suggested:

- To get into CLPRA
- Ensure right to free and compulsory quality education
- Generating awareness for secure source of income for the adults
- Effective distribution of government schemes for the poor
- Ensure panchayat and the local governments to address the issue
- Spread social awareness and build broad coalition and alliances with government and other agencies.
- It was suggested that to take the issue further lobbying with the government was required.

Policy Recommendations that emerged from the three consultations:

- Include both hotel and domestic sectors in the CLPRA
- Immediate ban of child labour in hotel and domestic sectors
- Implementation of the civil service code followed by a mass movement.
- Elective representatives should also come under the civil code.

Joy concluded that this would help make a plan of action that can eradicate child labour in hotel and domestic sectors in particular and Child labour in general.

Sharing her experiences, Neeraja Matto from Community Aid and Sponsorship programme (CASP) stated that they are working with 30,000 children and child labour is one of the issues they are involved in.

Giving the perspective of CASP, she said that they concentrate more on the small, way-side restaurants generally in the slums of the most populated areas. The clientele here comes for cheap food and hence workers are paid very low. Employers prefer employing children as they eat less can be disciplined, can work for less wages, work for long hours, can be abused and so on. Also owners often want children to stay for 24 hours and hence

mostly employ migrant children. Their duties include doing odd jobs like massaging, helping the employer wash his clothes, rather than only hotel jobs.

Talking on the hazards faced by these children, she noted that many of them were hit by employers by making slightest pretext like breaking a piece of crockery, short absence from work without prior permission and minor callousness in serving to the customers. Most of the time they do not voice their feelings.

Neeraja informed that the scenario in Bombay is that Hotel industry is 29 per cent and others 71 per cent. According to government estimates there are 10,000 child workers in formal registered restaurants.

CASP took up an action research programme to identify children working in hotels and to lobby with one particular ward, which was jurisdictioned by the municipal corporation to get an insight into the living conditions and the socio-economic conditions that compel them to take this kind of work, to explore their health education and training needs which would enable programme interventions for them and to organise various developmental services to meet their basic needs.

Action research of 300 children revealed that 87 per cent children were between the age group of 16-18 years, 18 boys were less 12 years of age and the major chunk was between 13 – 18 years of age.

Regarding their place of origin it was found that:

- 40 per cent from Maharashtra
- 26 per cent from Karnataka
- 13 per cent from Uttar Pradesh
- 5.3 per cent from Andhra Pradesh
- The proportion from Tamil Nadu, Rajasthan and Bihar was more or less the same i.e. from 3.3 per cent to 3.7 per cent.
- Few were from Orissa and West Bengal though proportion was negligible and
- Significantly 2 per cent were from Nepal.

As far as the educational background of these children is concerned, 111 boys studying in night schools out of which 33 were in Karnataka night school i.e. they studied only in that particular language and 77 in 16 different night schools in Marathi or hindi medium.

Family background of these children was that 50 per cent had large families (6-15 members) most of them (79 per cent) had both their parents alive and 20 per cent had no father and 5 per cent no mother. Most have come with the family consent. Some hotel owners do help boys like Shetty community helping children to go to schools giving jobs

70 per cent of them had migrated to Bombay. Reasons for migration were poor financial conditions, search of job opportunities and also as there was the attraction of Mumbai city. 80 per cent of them did not work before migration.

Nature of work they did in the city included working as delivery boys, waiters, cashiers, cleaning chairs, tables, sweeping, cooking, making tea and bhelpuri and washing utensils.

Mode of payment was that 83 per cent were paid in cash, 14 per cent in cash and kind. Some were given only for food and shelter. Other benefits included tips ranging from Rs. 25 to Rs. 100 per month. 22 boys got bonus on diwali and others got food cash and clothes as during diwali.

Their pattern of expenditure was that they mostly sent money home and gave it to relatives. There was also some personal expenditure on clothes, recreational activities and also paid for the night schools. Most of them were unable to save or save Rs. 100 to Rs. 500 annually. Significantly 5 of them could save Rs. 500 to Rs. 1000 in a year. Supplementary income came from doing odd jobs like delivering newspaper, selling agarbati, cleaning car tape recorder repairing and selling vada pao.

Local children stayed at home and migrants in their workplace, some with relatives or hotel owners. Working hours could exceed 12 to 15 hours in a day.

The CASP approach of work was that this kind of child labour should be banned or till banned regulated. CASP worked in the areas of: vocational training, health facilities, career guidance, counselling, income generation for whose parents are in slum areas, awareness and supportive structures and community development.

Regarding education CASP tried to enrol more and more children in schools, retain them with educational support like uniform and school bag, sensitise school authorities, give education catering to homosexuality, HIV AIDS, organise regular health check ups, counselling and group therapy, give them vocational training, skill development and career guidance like in help them get jobs in good hotels like the Taj hotel. NGO networking was also stressed upon. Better life options were placed for them where courses like entrepreneur training were given to them. Recreational programmes like sports competition, creative workshops, picnics, exposure visits, talent programmes Bal mela Diwali and rakshabandhan cultural programmes were organised. Advocacy included programme on banning Gutka. Besides all this CASP also tried to increase infrastructural facilities in night schools, encourage alternate education facilities in the schools with flexi hours and introduce bridged education in the formal education system for which the State government would have to play a proactive role.

Sister Lizzy from National Domestic Workers (NDMU) in Andhra Pradesh, in her presentation remarked that NDMU they have made a distinction between child work, child labour and domestic child labour. Information and data about children within houses remains incomplete. There are small surveys from different parts of the city. They had also conducted a small survey in Hyderabad covering six mandals. Here there were about 5,000 child domestic workers. They also conducted a survey in 100 apartments and again found the same number there. But the whole city could not be surveyed, as it was not the priority for any group. But now UNICEF has also made child domestic work a part of their agenda and this indicated a good beginning.

Type of work done by these children includes washing utensils, clothes, cleaning the house, massaging old and sick, assisting in cooking and running errands like going to the market or dropping children to school.

With regard to prevalence of child domestic workers, 17.4 million children were working according to the 1983 survey, of which 1/5th were child domestic workers within the age group of 10-14 years. Their survey in Hyderabad revealed that 75000 children were out of school, most of them within age group of 9-14, working in houses. 45,000 children were identified as child labourers and street children.

Talking about the socio-economic background of these child workers sister pointed out that both push and pull factors are at work. There was break up of joint family, which protected children and on the other hand women taking up employment outside support homes. Most children came from poor families and were orphans or semi orphans from rural as well as slum areas. Every state has dry regions from where children migrate to cities.

Statistics show that most child domestic workers were in the age group of 12-17 and 20 per cent were below 10 years of age. More than 90 per cent are girls.

As far as education is concerned most of them are illiterate or dropouts or have hardly completed primary schooling.

They were abused verbally and physically almost daily. Sexual abuse, mental abuse and psychological abuse were also prevalent.

Some common myths about child labour:

- Child labour is non-hazardous.
- They find a home away from home
- Children get food and shelter and they learn city culture.
- Safe for girls to be in a home
- Better to get half bread than having no bread
- Girls should learn household duties.

Children were employed, as they were very docile, cannot fight for their rights and can be trained according to the need of the employer. They can also be paid less.

Impact of domestic labour on children was:

- Uprootedness as they lived away from their culture family, friends and other siblings
- Loss of identity dignity selfhood and freedom
- Alienation and loneliness giving birth to agony
- Insecurity and vulnerability of being exploited physically, sexually and mentally.
- Lack of physical well being
- Long hours of work

- They became Malnourished and underweight
- Illiteracy and unskillness as did not have the skill for living as were within the four walls of home.

This work has also hindered their psycho, social and emotional development. They are not able to relate with other children.

Strategies adopted by domestic workers movement:

Recognising the invisibility of child domestic workers, if all groups could pool together resources and manpower with the government and conduct a survey we could look for a strategy and push forward our demands.

- Myths of the parents need to be broken by addressing the issue.
- There should be birth registration or registration in the housing colonies.
- Need for crisis intervention, Rescue and rehabilitation,
- Slavery and trafficking needs to be dealt with.
- Strategy needs to be non-threatening to the parents, employer and the child.
- Groups need to be liked and work together with the government along with children.

Strategies adopted in Hyderabad

We collaborated with the NCLP Programme of sending children back to school with the collectorate in identifying children not going school and helping them go preventing children from going to work. We were also involved with groups working with child clubs in schools discouraging child labour.

Important points that emerged from the discussions:

- As Liberalisation privatisation and globalisation is increasing commonality of the challenges is enormous.
- In Coimbatour has large number of child labourers all from other districts.
- We need to look more deeply into the strategies involved in bringing children to these two sectors. Migration is too mild a word. The trafficking aspect should come out more strongly.
- Five star hotels do not have child labour problems. But after the sale of three ITDC hotels, as work is done on contract basis, the possibility of employment of child labours increases.
- Clubs should also be included along with hotels. Press club union signed a wage agreement with the management that its members will not be allowed to employ child labourers but due to resentment from the management no circular was issued to the

members.

- In Lajpat Nagar 8 children were rescued through AITUC and was suggested to send them to Prayas centre from where they were sent back home. Police had made only a case of 325 (physical assault) against the employer.
- In Kerala trade union rights are disappearing and closure of factories is increasing and an acute problem of unemployment, child labour and child trafficking is emerging. The statistics of beauty parlours and ayurveda massage centres show this increasing trend. Mobilisation of capital is taking place instead of distribution of capital.
- We need to see what has been our learning from the interventions of other organisations working in sectors considered exploitative traditionally, specifically in terms of interventions in the source areas.
- Gujrat is fast developing free trade zones. In Mudra in Kuch transportation is fast developing. In Ratnal village alone there are more than 500 trucks children are trafficked and brought for lorry cleaning and road side dhabas and suffer various kinds of abuse.
- In case of hotel workers lot of abuse of smaller boys by bigger boys is observed. Homosexuality is rampant. Wages are also higher for bigger boys and they also often snatch the wages of the smaller ones. The bigger boys also have contacts with the prostitutes. Once they get married chances of spread AIDS increases.
- Rescuing operations can be done but in the court we fail.
- Source area needs to be operated for rescue rehabilitation. For effective intervention there needs to be link between the source and the supply area.
- A lot has been done in the context of the domestic workers bill by the NDWM in the form of lobbying and representations since 1986, but nothing specific has come out.

When we talk about banning hazardous we should not forget that large majority is in the agricultural sector where they are not beaten up or physically tortured.

The chair, concluding the session, remarked that framework of the memorandum needs to be integrated and holistic. About the sectoral approach we must be very clear that these are small little samples and any work is bad for the child's growth. While talking about the child labour in these two sectors, a larger scenario is unfolding: informalisation of labour is continuing, de-schooling, people are being evicted and thrown on the periphery of the town and children are forced to work to add a little to the family's income. This is connected to the larger issue of globalisation and Privatisation. In this context the 93rd Amendment as 0-6 age group left out deliberately, and hence the children are more prone to be trafficked. Public hearing can be a useful tool for empowering the society.

Finalisation of the Memorandum

The post lunch session was chaired by Prof. Babu Mathew. The draft of the memorandum

to be submitted to the ministries was finalised in this session. The final draft is attached:

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,

Date: 23.07.02
New Delhi

Joy Maliekal
Convenor CACL

List of Delegates:

Mr. Baby Paul, CACL Kerela
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Ms. Michelle D’cruz, Childline India Foundation, Mumbai
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Mr. Joy Maliekal, CACL Central Secretariat
Ms. Aloka Mitra, CACL West Bengal
Sr. Maggie Fernandes, National Domestic Workers Movement, Patna

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.

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