



# Do Children Need to Work...?

Profiles of Working Children in India

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## Foreword.....

Someone has correctly mentioned that 'the Children of today are the future of Tomorrow'. This is indeed a powerful statement and assumes special significance to our context. If children are deprived of their basic rights such as education, health..., it will without any doubt lead to unskilled adult labour force, which causes early physical decay, economic insecurity, low quality of life and ultimately high poverty, further strengthening the vicious cycle poverty, which we all have been trying to break for years now.

Clearly, our country does not demonstrate a 'happy face Emoji' with respect to situation of child labour. Census 2011 data has revealed two alarming facts: as many as 78 lakh children forced to earn a livelihood even as they attend schools while 8.4 crore children don't go to school at all. In CEC's view, they together signify a measure of deprivation among children and can be considered as a potential labour pool always being at the risk of entering the labour force. With the credibility of having largest number of working children in the world, our incredible India regularly witness children enduring miserable, exploitative and difficult lives, whether they are sweating in the heat of stone quarries, brick kilns, working in the fields 16 hours a day, picking rags in the city streets, or hidden away as domestic servants.

CEC, in its efforts to bring a "happy face emoji" to the situation of child labour, has added value to the many efforts made by several stakeholders nationwide; sometimes alone and sometimes with its partners, collaborators, friends and colleagues by plunging into different action research, actions, campaigns, advocacy etc. Some of its key interventions have been in the global garment value chain, home based craft production and in the brick kiln industry by providing insights and entry points for different stakeholders to find ways to break out of the vicious cycle of child labour. Through interventions in its current EU supported project on -"Empowering Civil Society Organization's for Decent Work and Green Bricks in India's Brick Kilns" - in Tripura, Uttar Pradesh and Rajasthan, CEC also strives to bring about a change in the child labour situation in the brick kiln industry.

With the belief that 'it takes drop by drop to fill a pitcher', this report is one such step in CEC's journey to eradicate child labour with an innovative approach to profile children's own perspective in this direction. Moreover, I am absolutely convinced that the organisations, campaigners and activists find it useful as a reference material and as an advocacy tool.

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# Preface

Vikki, an 8-year-old works as a newspaper boy in the streets of Bhopal, Madhya Pradesh. His day starts around 4.30 am, he walks through the narrow lane of his house to the newspaper agent, collects bundles of newspapers and then walks to the traffic signals to sell them. The agreement is he takes 50 per cent of what he manages to sell. The young boy often face abuse on his way to work in the mornings – many are familiar to him including his father, many whom he doesn't know. His mother ran away with his brother and sisters, leaving him at the mercy of his drunkard father. Vikki hates to go to school, he hates to be in Bhopal, he prefers to stay away from home most of the time and often thinks of running away.

Vikki, is one among those 65 children from 14 states and union territories in the Capital, who attended the National Consultation on Child Labour” held in New Delhi on 29th and 30th April 2017. The Consultation, jointly organised by the Time to Talk Campaign (a joint initiative of CACL and various networks and organisations supported by terre des hommes Germany), Campaign against Child Labour (CACL) and CEC.

## **The Methodology**

The Report – “Do Children Need to Work...? Profiles of Working Children in India”, was undertaken as part of Centre for

Education and Communication's project, Empowering CSOs for Decent Work and Green Bricks in India's Brick Kilns'. The aim of the report was to study the impact of amendments on Child Labour (Prohibition and Regulation) Amendment Act 2016, by understanding the perspectives of children (still working and those rehabilitated) who attended the national consultation held in Bal Bhawan in New Delhi on 29<sup>th</sup> and 30<sup>th</sup> April 2017.

To understand their views and thoughts around 55 children were selected for profiling out of a total 65 children who represented various sectors. Detailed profiling of children working in the mines, brick kilns, garments, domestic labour, hawkers and vendors were prepared after interviewing the children and the activists leaders who brought them for the consultation. The information gathered was transmuted to detailed profiles.

The introduction to the report, written after thorough secondary research defines who is a Child and what is Child Labour. Considering the present scenario of child labour, the introduction focuses on the factors that contribute to child labour and highlights the efforts taken by govt, NGOs and various other networks to address this menace.

Chapter II, deals with the Child Labour (Prohibition and Regulation) Amendment Act 2016 and the efforts Campaign Against Child Labour (CACL) has taken to promote CLPRA. It also focuses an in depth overview of the national consultation held in Bal Bhawan in New Delhi on 29<sup>th</sup> and 30<sup>th</sup> April 2017.

Do Children Need to Work...?  
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The report is an attempt to look at the impact of the amendments on the Child Labour (Prohibition and Regulation) Amendment Act, 2016 which allows the children to help his or her family enterprises after school hours or during vacation. It captures the voices of children in the context of this amendment and their real life situations as child labourers .



## CHAPTER 1

# INTRODUCTION

Child labour is a complex issue which continues to exist on a large scale despite the legislations adopted by countries to prohibit and restrict children's work. Child Labour is a form of exploitation which denies a child's right to education, play and leisure, mental and physical abilities, personal development, etc. Child labor is not a uniform or homogenous group, children could be engaged in different varieties of activities which could be paid or unpaid; self employed or wage employed; domestic work or industrial work; migrant or non-migrant, etc.

### **Defining Child and Child Labour:**

There are varying definitions on 'child' and 'child labour'. The term 'child' depends on the definition of 'age'. According to the ILO, the term "child labor" is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development (International Labour Organization). The ILO's World Report on Child Labor 2015 gives an estimate of 168 million children who are trapped in child labor(Ibid). The Campaign against Child Labour, a network of over 1000 organisations defines child labour as: "Child labour includes children (under 18) prematurely leading adult lives, working with or without wages, under

conditions damaging to their physical, mental, social, emotional and spiritual development, denying them their basic rights to education, health and development.”

The Child Labour (Prohibition and Regulation) Act, 1986 (CLPR Act) defines child as “a person who has not completed his fourteenth year of age” and prohibits employment of children (those who have not completed their fourteenth year) in specified occupations and processes.

Article 2 of the ILO Convention No.182 defines all persons under the age of eighteen as ‘child’ (Samantroy, Sekar and Pradhan). According to the United Nations Convention on the Rights of Child, a ‘child’ is defined as “any person who has not reached the age of eighteen unless a different age of maturity is specified in any country’s law, applicable to the child” (Ibid.). Article 24 of the Indian Constitution mentions that “no child below the age of 14 years is to be employed in any factory, mine or hazardous work.”(Ibid.). The ILO has marked out ages for different types of employment: age 15 for ordinary work; age 18 for hazardous work; age 13 for light work (International Labour Organization-International Programme on the Elimination of Child Labour).

The 2008 Resolution II adopted during the 18th International Conference of Labour Statisticians, has specified what the term ‘child labour’ covers:

♣ “The worst forms of child labour, including slavery; prostitution and pornography; illicit activities; and work likely to harm children’s health, safety or morals, as defined in ILO Convention No. 182.

♣ Employment below the minimum age of 15, as established in ILO Convention No. 138.

♣ Hazardous unpaid household services, including household chores performed for long hours, in an unhealthy environment, in dangerous locations, and involving unsafe equipment or heavy loads.” (UNICEF)

The ILO’s Worst Forms of Child Labour Recommendation, 1999 has indicated work that should be prohibited: work in which the child is exposed to physical, emotional and sexual abuse; work that is performed underground, under water, at dangerous heights or in confined spaces; work in which there is dangerous machinery, equipment and tools, or the kind which has manual handling or transportation of heavy loads; work which is conducted in an unhealthy environment, which might be, for example, exposing children to hazardous substances, agents or processes or to temperatures, noise levels, or vibrations which would damage their health; work which is under difficult conditions such as working for long hours or during the night or the kind of work in which there is no possibility of returning home each day (International Labour Organization).

The ILO Convention No.182 defines “hazardous child labor” as “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

It has been noted that the largest category in worst forms of child labor is the hazardous child labour. An estimate of 85 million children, aged 5-17 has been made who works in diverse sectors as agriculture, mining, construction, manufacturing, service



industries, hotels, bars, restaurants, fast food establishments, and domestic service, under dangerous working conditions. It is prevalent in both developed and developing countries. “Worldwide, the ILO estimates that some 22,000 children are killed at work every year. The numbers of those injured or made ill because of their work are not known.”(Ibid)

If a child is involved in an economic activity which generates production and is adding value to the national product then the child is considered as employed (Samantroy, Sekar and Pradhan). Such a definition has been critiqued for being “narrow” as it lacks a right based approach, child labor is an issue of human rights and not just an economic issue (National Commission for Protection of Child Rights).

### **The Present Scenario: Child Labour:**

Since child labour is a global phenomenon, according to the global estimates, out of 190.7 million children in the age group of 5 to 14 years, who are engaged in some form of economic activity, 165.8 million falls within the strict definition of child labour. There are 74.4 million children who are engaged in hazardous occupations. According to Census of India 2011, more than 10.2 million children in the age group of 5-14 years are “economically active”- 5.6 million boys and 4.5 million girls (UNICEF).

The incidence of child labour exists across the country in varying degree. According to NSSO’s estimates in 2009-2010, the labour market consisted of 6 per cent of the children in the age group of 5-17 years and 3.3 percent in the age group of 5-14 years. 18.4 per

cent was the incidence of working children in the age group of 15-17 years. (Child Hope)

India like many other countries witnessed a decline in the incidence of child workers from 8.3 million in 2004-05 to 4.5 million in 2009-10(Ibid.). It is disturbing to look at the absolute number of children who are earning. According to the estimates from the data of NSSO 2009-2010, in rural segment, 85 lakh children from a total of 216 million children in the age group 5-17 years were fully engaged in an economic activity. While in urban segment, out of 68 million children of the age group 5-17 years 21 lakh children were engaged fully in economic activity(Ibid). Along with that, about 16 lakh children in the rural segments were found to be engaged in other subsidiary economic activities. Similarly, in the urban segment about 1 lakh children were found to be engaged in both principal and subsidiary activity.

A large segment of the working children in the age group 5-17 years in both rural and urban segment are employed as casual labourers. In rural economy, agriculture is the predominant sector employing children. 68 per cent of the children working as casual wage labour were in the agricultural sector(Ibid). Whereas in urban segment, children are mostly employed in domestic duties. 20.7 per cent children were employed as casual labourers and 17.6 per cent were self employed. About 6 per cent of child workers also attended educational institutions(Ibid).

In terms of magnitude and incidence, it was observed that child labour decreased between 2001 and 2011. There was a decline in the number of child workers(magnitude) in the age group of 5-14

years, from 12.7 million in 2001 to 10.1 million in 2011. Similarly, the incidence of child workers in the same age group also declined between the two periods, from 5.0 per cent in 2001 to 3.9 per cent in 2011 (Samantray, Sekar and Pradhan). However, the decline differed across rural and urban areas. In rural areas, the incidence of child labour decreased from 5.9 percent in 2001 to 4.3 per cent in 2011, where as in urban areas there was a marginal increase from 2.1 per cent in 2001 to 2.9 per cent in 2011(Ibid). The decline in the incidence of child labour in rural areas could be seen to an extent due to the enrolment of children in schools. But a rise in the number of child workers indicate their high demand in low paid or unpaid unskilled work(Ibid).

An analysis on situation of child labour in states and union territories revealed that seven states of the country, namely, Uttar Pradesh, Bihar, Rajasthan, Maharashtra, West Bengal, Madhya Pradesh and Gujarat, with 62.8 per cent of child population, account for 64.7 per cent of total child workers(Ibid).

Through an analysis of the increase in child workers vis-à-vis the growth of child population, it was evident that Nagaland and Himachal Pradesh emerge as two states which showed highest incidence of child labour. There was an increase in the incidence of child labour in Nagaland from 8.5 per cent in 2001 to 13.2 per cent in 2011. Himachal Pradesh too had an increase in child workers as a proportion of child population, it increased from 8.1 per cent in 2001 to 10.3 per cent in 2011. With a decrease in child population by 0.7 per cent annum in the state, there was an



increase in the rate of child workers by 1.6 per cent per annum between 2001 and 2011(Ibid).

The Census of India classified child workers as 'main' and 'marginal workers'. According to census 2011, in comparison to 2001, there was an increase in child workers in the urban areas in marginal status in 2011. The census found that 4.4 million workers(4.26 per cent) out of 10.1 million workers in the age group of 5–14 years were main workers in 2011 while marginal workers constituted of 5.8 million which included 3.5 million students and 2.3 million others. Therefore, 6.7 million children involved in some form of economic activity alone were either main workers or non-students. It is also important to note that the proportion of marginal workers who were students had increased from 2.5 million in 2001 to 3.5 million in 2011. While 36.2 per cent of the marginal workers were students in 2001, the same figure stood at 60.3 per cent in 2011.(Ibid).

### **Factors Contributing to Child Labour:**

There can be various factors contributing to child labour- including poverty, illiteracy, socio-economic circumstances, unawareness about the ill effects of child labour, lack of access to basic facilities, lack of skill training, social customs. Most of the children belong to the socially excluded groups. There is also existence of bonded child labour due to family indebtedness, children work along with their parents in order to pay a debt or a loan or due to any social obligation. There remains a high risk of physical or sexual abuse. Households with unsteady income mainly from casual work have a high probability of sending their

children to work. Low wage rate of the casual labourers, insecurity of income form a crucial factor in influencing parental decision to send their children to work (Child Hope).

Children are susceptible to all sorts of abuse, exploitation, health problems or psychological and emotional damage. There is a demand for child labourers as they are a cheaper source of labour and are unaware of their rights.

Children remains a hidden workforce whose contribution is significant yet invisible. Due to the conventional understanding of work in purely economic sense, work performed within the remain of household remains invisible and unaccounted. The gender and social discrimination that exists deprives girls from getting education and further pushes them into domestic and care responsibilities.

ILO's global estimates(2012) have mentioned children in the age groups of 5-17 being involved in agriculture(58.6%), services other than domestic work(25.5%), industries(7.2%), domestic work(6.9%) (International Labour Organization). UNICEF mentions the different types of work that children are engaged in: "manual work, domestic work in family homes, rural labour in the agricultural sector including cotton growing, at glass, match box and brass and lock-making factories, embroidery, rag-picking, beedi-rolling, the carpet-making industry, mining and stone quarrying, brick kilns and tea gardens". (UNICEF)

The states where child labour is highly prevalent includes: Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra (Save The Children). There are some major sectors where child labour is explicitly visible. According to 2011 Census, agriculture

is seen as the biggest employer of children. Children work for longer hours with low pay and poor working conditions. Similarly, child labour is rampant in India's garment industry. According to a report by Save The Children (2015), the industry generates 1/5<sup>th</sup> of the total export earnings and contributes 4% of the country's total GDP. Child labor is involved in the process of 'embroidery and embellishment' and 'finishing'. The Brick Industry, is also one of the child employing industries. Since majority of the workers are migrants, they bring their children along who work at the kilns as a unit. They work for long hours with no basic amenities. Domestic work is another sector where child labour exists. There are various push and pull factors which causes child domestic work such as poverty, discrimination, lack of education, opportunity for better living conditions. Mining and Quarrying is another sector where child labour is rampant. Mining of all forms is dangerous for children. There are several health problems due to the awkward body postures and can be physically dangerous due to the heavy loads.

### **Interventions to Eradicate Child Labour:**

The government of India has taken certain measures to eliminate child labour. The constitution of India through its 86<sup>th</sup> Amendment made Right to Education a fundamental right for all children in the age group of 6-14 years. Article 24 of the constitution prohibits the employment of children in factory or mine or any hazardous occupation. There are various schemes that the government has also introduced for rehabilitation of children withdrawn from work. The National Child Labour

Project (NCLP) was launched by the Government of India in the year 1988, as a part of a larger Plan of Action arising out of the National Child Labour Policy. It aims to eliminate child labour and has been supported by several major initiatives at national, state and district level. The NCLP includes the establishment of Special Training Centres, as specified in The Right of Children to Free and Compulsory Education Act (RTE Act), 2009, to provide children with education and vocational skills and prepare them to be mainstreamed into the formal education system under the NCLP scheme. The Sarva Shiksha Abhiyan (SSA) implementation framework, based on The Right of Children to Free and Compulsory Education Act, 2009, provides arrangements for education of children belonging to the most underprivileged groups, such as child labour. Since 2001, the number of out-of-school children has decreased from 32 million to 2.2 million in 2012-13. Even though efforts have been made by the government to prevent child labour and respond to the problem, a large number of children are still out of school and working as main or marginal workers. However, despite laws and legislations, child labour remains a serious problem in the country.

The Child Labour (Prohibition and Regulation Act) 1986, was enacted to prohibit the employment of children below 14 years in certain occupations and processes. Section 3 of the Act prohibits the employment of children in any of the hazardous occupations set forth in Part A of the schedule or in any of the processes set forth in Part B of the schedule. However, the Act is permissive in engaging child labour in all the non-prohibited occupations and processes but it regulates the conditions of working. The Act was

criticized for remaining silent on employment of children above 14 years of age and allowing a statutory distinction between hazardous and non-hazardous.

### **CEC And Child Labour**

CEC has been addressing issues around child labour through action-reflection-action research and advocacy with state actors at various levels. Some of the recent interventions have been in the global garment value chain, home based craft production and in the brick kiln industry by providing insights and entry points for different stakeholders to find ways to break out of the vicious cycle of child labour. By being part of CACL, CEC has also been addressing the issue of child labour for quite some time. CEC continues to engage with workers and employers alike, reach to the community and involve participation in efforts to bring children out of labour and secure their rights. Currently CEC is implementing an EU supported project - "Empowering Civil Society Organization's for Decent Work and Green Bricks in India's Brick Kilns" - along with its partners, Terre Des Hommes (TDH), Germany and Prayas in three states viz., Tripura, Uttar Pradesh and Rajasthan. As part of this project, CEC along with its partners is taking up different initiatives to eradicate child labour within its component of ensuring decent work conditions in the brick kilns sector.

# THE CLPRA

## **Amendment on CLPRA**

On 22nd July 2016, the Indian Parliament passed the Child Labour (Prohibition and Regulation) Amendment Act, which is a step towards the complete prohibition of engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto (Samantroy, Sekar, & Pradhan, 2017).

Here, the age of the prohibition is linked to the age under RTE Act, 2009. The CLPR Act introduced a new definition of adolescent. It prohibited the employment of adolescents (14-18 years of age) in hazardous occupations and processes. These provisions have significance for protecting adolescents from employment not suitable to their age. The Indian Cabinet has approved the amendments proposed in the Act in the form of Child Labour (Prohibition & Regulation) Amendment Bill, 2012). The salient features of the proposed amendments are:

- (i) complete prohibition of employment of children below 14 years, with the age of the prohibition linked to the age under RTE Act, 2009;
- (ii) prohibition of employment of adolescents (14–18 years) in hazardous occupations/processes;

(iii) enhanced penalty for employing or permitting employment of children, that is, imprisonment for a minimum term of 6 months and maximum term of 2 years or with minimum fine of Rs. 20,000 extendable to Rs. 50,000, or both.”(Ibid.). A similar penalty is proposed for employing or permitting employment of adolescents in hazardous occupations/processes. The penalty proposed for repeat conviction for employing or permitting employment of a child is imprisonment for a minimum term of 6 months and maximum term of 2 years. Offences under the Act are made cognizable.

#### **Criticisms on Amendment:**

However, the Amendment has also encountered criticism. It has been argued that the definition of child and adolescent is problematic and is in contradiction with the definition by Juvenile Justice(Care and Protection Act),2010 or the Protection of Children from Sexual Offences Act 2012 and the new National Policy for Children, 2013.

The new bill even though prohibits children under the age of 14 from working, makes an exception, it allows children to work for “family businesses” including extended family. This has been criticized by the UN children’s agency UNICEF. "Under the new Child Labour Act, some forms of child labour may become invisible and the most vulnerable and marginalised children may end up with irregular school attendance, lower levels of learning and could be forced to drop



out of school," UNICEF<sup>65</sup> India's Chief of Education Euphrates Gobina said in a statement. Activists have argued that the exceptions "clears the way for children to be employed in industries like diamond cutting, scavenging, brick kilns, slaughterhouses or as domestic help." According to *The Hindu*, allowing child labour in family or family enterprises will reinforce caste based labour.

The law also contravenes the ILO's Minimum Age Convention and UNICEF's Convention on the Rights of the Child, to which India is a signatory. According to the UNICEF, a child in the age between 5-11 years of age is involved in child labour if he/she does one hour of economic activity or atleast 28 hours of domestic work in a week. In case of children in the age group of 12-14, 14 hours of economic activity or atleast 42 hours of economic activity and domestic work per week is considered child labour.

#### **CACL and CLPRA:**

Similarly, Campaign Against Child Labour (CACL) has critiqued the amendment on various grounds. The Child Labour (Prevention and Regulation) Act of 1986 in the Schedules had several occupations and processes that would have been managed by families or as family enterprises. Among such establishments where child labour was prohibited included agarbati making, gem cutting, fabrication, foundry, automobile workshops and repairs, slate pencil making, lock making, soldering, electronics, polishing, potteries, welding, zari making, processing, dhabas, plastic making, handlooms, etc.

The Amendment, despite its stated objective, in effect allows child labour in all such and more establishments leading to legalising of family and family based occupations. According to CACL, by reducing the list of hazardous occupations to mines, inflammable substances or explosives and those in the schedule of Factory Act, many children employed in hazardous occupations would go un-recognized. There are many family based enterprises which are hazardous, they would escape official scrutiny.

The amendment permits children to work by presuming that a child can both study as well as work. Section 3 of the amended act simply states that the children can work after school hours and during vacations. CACL critiques it on the basis that it doesn't specify the hours of work and it is in contradiction to the UN Convention on the Rights of the Child. Moreover, by allowing children to work, there will be an increase in the retention rate of children in schools and increase in the drop-out rate of children from the marginalized sections. It will also prevent children from getting time for doing home work and for play and leisure which too are rights recognized by UNCRC, ratified by India, CACL notes.

As the Amendment allows the children to engage as artists and in audio-visual industry including advertisement, CACL considers this a serious lapse in the context of increasing commercialisation of audio-visual industry.

By expanding the definition of family, there are increasing chances of children being exploited. Since in India, most of the

traditional family occupations are caste-based, by allowing children to engage in family based occupations, CACL points out that there will be entrenchment of caste based social structures and caste based occupations as it will bind children from marginalised and poor sections to traditional caste based occupation for generations or such children will be denied the freedom of choice in the pursuance education, as well as in the acquisition of knowledge and in the diversification of skills. More than half of India's child workers labour in agriculture and over a quarter in manufacturing—embroidering clothes, weaving carpets, making match sticks or brick kilns, restaurants, in domestic work. In India, overwhelmingly, child labourers are those from vulnerable Dalit, Adivasi and Muslim backgrounds. CACL is extremely concerned that they will be the worst affected ones by the CLPRAA, 2016. Children from the vulnerable communities will be forced to work in many employments, in hazardous conditions, for long hours which will deny their right to schooling and education.

Although the amended act recognizes as a “cognizable offence” and imposes penalty on its offenders including parents, CACL stresses that such steps wouldn't be of much meaning after legalizing child labour in family and family based occupation.

In the end, Campaign Against Child Labour (CACL) proposes Child Labour System (Abolition, Prevention and Rehabilitation) Bill, 2017 for complete eradication of child labour up to 18 years of age in line with UNCRC and National Policy for Children, 2013. According to CACL, this will enable us to attain the

Sustainable Development Targets 4.1 (By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes) and 8.7 (Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms).

### **The National Consultation on Child Labour:**

However, it is also important to understand the issue from the child's perspective. A two day National Consultation on Child Labour was organised with 65 children from 14 states and union territories in the Capital on 29-30 April, 2017 – an initiative of the Time to Talk Campaign (a joint initiative of CACL and various networks and organisations supported by terre des hommes Germany), Campaign against Child Labour (CACL) and Centre for Education and Communication (CEC).

The consultation had children in the age group of 12 to 20 years who had come from different states: Madhya Pradesh, Chhattisgarh, Tamil Nadu, Maharashtra, Telangana, Andhra Pradesh, Pondicherry, Karnataka, Odisha, Jharkhand, Gujarat, Uttar Pradesh, Delhi, Haryana and Rajasthan.

The aim of the event was to capture the voices of the children so that it could reach the next Global Conference on Child Labour which is scheduled to be held in Argentina in November 2017. All children were child labourers. Some were working while some had left work. They were engaged in

selling flowers, vegetables, fast food, newspaper and ornaments; making incense sticks and jewellery; employed as domestic worker, mason, electrician, carpenter; or in mines, stone quarry, brick kilns, garment factory, spinning mill, in the agriculture and allied sector, and in ragpicking.

In order to understand the children's perspective on child labour and the amendment they were asked certain questions and performed activities like drawing. The children gave insights and shared their stories. For instance, in Haryana, children as young as 10 years worked in factories - making thread to be used to make cloth. They spend everyday in big factories to earn for their families. Children working in mines shared their experience, a child was working in mines since five years. When the children were asked about the possibility of engaging in both work and study they answered that they can't concentrate on both, there will be no time to rest and play after school, due to lack of resources they are forced to work. They believed that working in factory or home is hazardous for them, piece-rate work is also hazardous, working in the factory and lifting heavy weights is hazardous.

In order to get the children's perception on the age of child labour, they were asked if it should be 14? Or 18? According to the children, the age should be 18 years. They should be given free education till 18 years of age. Since children receive free education till 14 years they drop out as their unable to pay for their education. Education till 12<sup>th</sup> standard will help them in mental and psychological development, they said.

They expressed their opinions about imposing fine on parents. Most of them believed child labour shouldn't be only parents' responsibility, the government should also be responsible. Due to lack of earnings parents send their children to work therefore, government should provide decent work and wages to parents. One participant said that there should be one Act in all states. For instance, he said that in Haryana, child labour is prohibited till 18 years whereas in Delhi it is 14 years. So most of the parents send their children to Delhi for work. there was a different view by one participant, he said fine should be imposed on parents. He shared one experience from his neighborhood where a child was beaten up by his parents for not bring back money at home.

In the context of traditional occupation, the children believed it isn't necessary for children to learn family's traditional occupation, if opportunity for education is given they can do better. They said skilled based training should be given in schools. They also raised an important question about why children from a backward community or a particular caste is engaged in traditional work while the same cannot be said about children from affluent families involving in traditional work?

Here are some of the recommendations made by the children regarding the Amendment. They said, children shouldn't be allowed to work before the age of 18 as it would affect their mental and physical development. The age of compulsory education should be increased to 18 years. All workplaces are

hazardous they said, children shouldn't be allowed to work till they turn 18. Children should be allowed to help their family in household activities but they shouldn't be allowed to do labour work. the government should make sure the families are economically strong so that the parents are not forced to send their children to work. the right to play is violated when children below 18 are working. The government is promoting child labour by allowing children to work in non-hazardous places at the age of 14. Therefore, children below the age of 18 shouldn't be allowed to work. The age of child labour should be nationalized.



## CHAPTER III

# PROFILES

*“Child labor and poverty are inevitably bound together and if you continue to use the labor of children as the treatment for the social disease of poverty, you will have both poverty and child labor to the end of time.”*

**Grace Abbott**

*"There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace."*

**Kofi Annan**

## SECTOR - 1 MINING

Mining involves strenuous work of carrying heavy loads and of operating heavy tools and machinery, as well as the risk of working in unstable underground structures, of using toxic and often explosive chemicals and exposure to extreme heat and cold. These activities take place in remote areas such as in mountains or in border areas where little to no form of governmental authority, schools nor social services exist. Family or community support most often doesn't exist for the mineworker thereby leading to alcohol abuse, drugs and prostitution. Apart from having moral and psychological impact on the individual, in this industry one's physical health is also impacted. For example, one wouldn't be able to detect disabilities until years later. As such, these mines are swiftly relocated when hints of strikes come to be known. Further, employment of children in this industry is prevalent. The International Labour Organisation has been working since the organisation's inception in the early twentieth century to eradicate it. Significant reduction in such employment has occurred over the years, however, child labour in such spaces can

still be seen in Asia, Africa, Latin America and some parts of Europe. Such instances occur when there is a threat to normal/traditional livelihood practices due to economical and/or social disruptions such as civil wars and droughts. Although one million and counting children are inducted into mining, such statistics seems insignificant as compared to the one hundred million children employed in the agricultural sector. Thus much attention to child labour in mining situations goes unnoticed.

Child miners are mostly seen in small-scale mines or quarries. They tend to be the poorest of the poor. Children as young as 4-5 years of age are recruited for mining gems, gold, coal and construction materials such as sand, clay and rock. They face the same risks, likes cave-ins, rock falls, mercury poisoning, asphyxiation, as adults. The environments in which they live increase their health risks for the soil, water and air may be contaminated with toxic mercury or other heavy metals. Although schools and health services are not a given in such spaces, wherever they are available, the children's work obligation prevents them from attending or availing these facilities.

Do Children Need to Work...?  
Profiles of Working Children in India

Common mining and quarrying tasks	Associated Hazards	Potential Health Consequences and Injuries
Tunneling	Explosives	Death
Diving into muddy wells,	Confined spaces	Suffocation
Handing picking slabs, rocks or sand,	Faulty supports	Silicosis and related respiratory diseases
Crushing and amalgamating,	Stagnant air, poisonous gases and dust	Nausea
Sieving, washing and sorting,	Radiation	Exhaustion
Removing waste or water from mines,	Dangerous heights, open holes and falling objects	Joint and bone deformities
Transporting materials via carts or carrying	Lead, mercury and other heavy metals	Lacerations
Cooking and cleaning for adults	Physical and verbal abuse	Back and muscle injury
Selling goods and services to miners		Noise-induced hearing loss
		Frostbite
		Sunstroke and other thermal stresses
		Neurological damage
		Genito-urinary disorders
		Musculoskeletal disorders
		Immune deficiency
		Injury from beatings, sexual abuse, burns

**With respect to fatal injuries, mining is the most hazardous sector for children. In 2003 it was reported that there was an average fatality rate of 32 per 100,000 full-time worker equivalents (FTEs) for youth between the ages 5 and 17 years employed in the mining sector. This was double the rate in the agriculture and construction sectors in that year.**

IPEC baseline surveys, such as the one done in Mongolia in 2006, report that more than one-fifth of child miners had increased health problems since starting work. More than 40 per cent suffered from musculoskeletal pain and 30 per cent from exhaustion. Complaints of respiratory and genito-urinary diseases were made by one-third of the children miners. Further, medical services were inaccessible to 43 per cent of the children and despite the illness causes, one-third continued to work.

In India, much of the mining activities are illegal. In Maharashtra, it is estimated that at least 25 per cent of the total stone quarries are operating without a license. In the other mining states like Karnataka, Rajasthan, Madhya Pradesh, Chhattisgarh, Jharkhand, Orissa and Andhra Pradesh almost 50 per cent of the mines are illegal or illegal extraction of minerals is taking place. It is in these illegal quarries that child miners are found but no official records can provide an accurate number. Therefore, most employment of children or injury or loss of their life goes unreported. According to the Census of 2001, there were 45,135 children between 5-14 years working in the mining sector. This means that the mining sector employs nearly 7 per cent of working children in India. However, the scale of the number has been grossly misrepresented according to the Dhaatri Resource Centre for Women and Children – Samata. Rather it is suggested in Karnataka alone there

are close to one million children working in mines – a number given by the ILO as a worldwide figure.

In talking about the few schools that are built near mining areas, they are often destroyed. This is so that the mining activities go undisrupted. Such is the case found in Goa and Andhra Pradesh where the Birla Periclase agents used a school as a storage unit. The following is a report on the living conditions of one such child miner

“Rani (name changed) is 10 years old and working in the sandstone mines in Jodhpur, Rajasthan. She earns Rs. 70 a day, cleaning mine waste from 9am till 5pm. She works about 15 days a month because she gets tired and needs to rest, and sometimes can't find work in the local mines. She has been to school (an NGO-run crèche) for just two days in her life. She is already addicted to gutka and fights with her mother to spend money on soap and gutka for herself.”

## **Will Government Intervene to Facilitate Children Study...?” – Mukhiram**



**Seventeen-year-old, Mukhiram, hails from Bangora Village in the Kabirdham district of Chhattisgarh. Though a plus one student, Mukhiram earns his livelihood by working on weekends, and**



holidays in a bauxite mine in Bodlai, a village, 5 to 6 kilometre away from his village.

Mukhiram's job at the mine is to load the bauxite into trucks. For loading every truck, he is paid Rs, 300. "hum panch-che lok milke truck barta hei. ek truck hum dho-theen gande pe barta hei" (five-six of us together load a truck. For filling one truck we take two to three hours) says Mukhiram.

Mukhiram's two elder brothers are also working in mines. His father who was a mine worker passed away due to sustained illness in lungs and stomach.

Mukhiram lives in his own house and they have agricultural land where the family do the cultivation of millets and vegetables. "gaavu mei paani aur bijli ka bahoot problem hei, iske vachase hum na kheti kar sakta hai ya pad sakta" (in the village, there is a huge problem with water and electricity, and because of that they can neither cultivate or study" says Mukhiram. According to him, all agricultural lands owned by the villagers are being purchased by big mine owners. HCL, BALCO and Vedanta and many other big players have mining operations/contracts in these belts.

According to Mukhiram, there are many small children working in different bauxite mines. Many of them are not that lucky enough like him, who works only on weekends and holidays. They slog in the mine all throughout for making their livelihood and support their family.

“Humara ghar or jameen abhi humara paas hei, magar mere dosthlokom ka parivar se companywalom ne jameen khareeda hei. Zyadathar lok, kharz mittanekeliye kam paisepe jameen bejraha hei. woh din door nahin, jab hum bhi beghar bannekka.... Companyomka thaakath jabardast hei” (Our house and land at present is with us, but the company has purchased the land from many of my friend’s families. Many of them are selling the land for meagre amount in order to repay the debt. That day is not far, where we too will be homeless. The company people are very powerful)

Mukhiram is not unhappy working in mines. For him, working on weekends is money for his expenditure and some support to his family too. Many a times, loading takes too much a toll on him, his head, neck and shoulders used to ache and inhaling dust he use to get frequent cold and cough. But now he is an expert in the field with his three years of experience and do not complain about illness or aches.

When he sees small children working in the mines, he feels bad for them and then curses the state for not supporting the child to get educated. “Sarkar gareebi mithana hai, ma baap ko noukari dena hei and bachom ko padne dena hei”, (government should do away with poverty, give jobs to parents and allow children to study) he argues. Aisa ek din ka umeed kar sakta hei kya...? (Is it possible to dream about such a day) ... He asks.

## **Realising the Health Risks... He Continues with Mines: Santhosh Kumar**



**Santhosh Kumar, an 18-year-old boy from Chhattisgarh, still recalls that fateful day in August 2015, when his father Santhal Singh, a bauxite mine worker succumbed to death due to**

stomach pain. Santhosh feels that, it was, in a way, good, that his father died, because to see him wreathing in pain for the last few years, was a very difficult task. The Doctors consulted said that his illness was due to exposure to dust for a long period. Santhosh is aware of the health risks involved while working in a mine, but for the last four years, he too is working in a bauxite mine.

“My father stopped working when I was 12 years of age. He too, like me, had worked in a mine at very young age. It was his ailment that stopped him from going to the mine”, says Santhosh.

Santhosh like studying and is a 10<sup>th</sup> std student in a nearby government school. He earns money for his studies by working in the bauxite mine. He works in weekends and summer vacation and for that matter on all holidays. At times, he even bunks classes to work and earn money. The mining site is 3 kilometres away from his village. He walks it down or at times get a ride on cycle or bicycle from villagers. His job is to load bauxite into trucks and makes Rs 300 per truck. Santhosh hates the dust in mines and the noise at the site. Had any other option, he would have opted out from working, but cannot afford to due to poverty and lack of other job avenues.

Santhosh's mother Budhabhai manages the household with what he and his brother earns. Though she has 6 children, four of them are married and lives separately. “They have their own family to take care so there is no support given to us”, says Santhosh. One of his unmarried brother is an ambulance driver with a mining company and the family is run by the effort of

these two. “my brother too will get married soon, then I will have to take care of my mother.

Santhosh’s family has agricultural land and it is his mother, who manages farming. They grow millets and at times vegetables, but the scarcity of water takes away their spirit in farming. Fortunately, the village they live doesn’t have operational mines. Once it is identified, we will lose our land”, says Santhosh, because so strong will be the pressure from them, he believes.

## Unwanted by State and Society... We Struggle for Survival – Rahul Kushwah



In Ganj Basoda, around 100 km away from Bhopal, the capital city of Madhya Pradesh, exists many operational mines, where Rahul Kushwah, a seventeen-year-old boy, slogs for the last 6 years by crushing granite stones and loading it into a tractor

trolley. Rahul got introduced to the mines initially at the age of 12, where he worked as a part-timer after his schools. But, after completing 9<sup>th</sup> std, Rahul dropped out of the school and took up full time work in the mines.

Rahul's father – Matra Prasad, who worked in mines for more than twenty-five years is sick and bedridden for the last eight years. He has severe stomach ache. His mother Guntu bhai besides doing household chores, takes care of the agriculture holding they have. “We cultivate soya bean and wheat but the scarcity of water creates problem with the yield”. says Rahul.

Rahul likes studying, but the condition at home, doesn't allow him to study. He has to support his family, his younger brother's schooling and ailing father's treatment. He works from 9 AM to 8 pm, with an off-day after 8 days of work and get paid Rs. 200 daily. “There is no payment on off-days. If I fall sick, and take leave, no money will be paid for that as well”, he says.

Rahul is working in the mines for the last six years. Rahul often complains about body ache. If a permanent worker falls sick the company takes them to hospital and pay the hospital expenses but if the worker is on contract, he will have to meet up with his own medical expenses.

According to Rahul, there are more than 2000 children working in the mines, which is spread around 14 kilo metres. When police



or the Labor Department comes for inspection the children are asked to run away from the site.

“If I continue working in the mine, I'm sure like my dad I shall also fall sick one day. So will be the case of the other 2000 children working here. Why no one is bothered about our health and life. Why can't government take away children from mines and help them go to school?”, asks Rahul.

## Sown the SEEDS of Education: Manikanta Nayak



**Manikanta Nayak, started working in an iron ore mine in Sandur in Karnataka, when he was barely 10 years of age. His father, Manju Nayak was a total drunkard. The family, originally from Rajasthan migrated to Sandur, in search of better avenues.**

Manikanta's mother Lakshmi Bhai, is the one who is running the household. She worked in an iron ore mine and during monsoons, when mine gets closed, she work as agricultural labour.

Manikanta has a younger sister and two brothers. For supporting the family, Manikanta at a younger age left school and joined his mother to work in the mine. For crushing one "puttu" (iron basin) of stones, Manikanta is paid Rs. 5 and since the stones are hard, he can crush only around 6 such puttu's a day. He is paid Rs. 30 for the hard toil he puts in. He worked for 3 years in the mines.

It was sheer poverty that drove us mines", says Manikanta. "We could not even afford to build a house of our own", he adds. Fortunately, an organization called SEEDS adopted Manikanta and took care of his education. Now at the age of 17, Manikanta, under open school system has passed out 10<sup>th</sup> Std. SEED, the NGO is providing various skill development livelihood training programmes under the guidance of professional trainers for the children. "My income is a source of support for my family. Now, after attaining technical skills with the help of SEED, I shall try for a good job and support my family", says Manikanta.

## Great Expectations:A Long Way to Go – Manjunath



**Seventeen year old Manjunath, is a class x student who is preparing to appear for exams under open school system with the support of SEEDS.**

**SEEDS - Society for Socio Economic and Ecological Development – is an NGO whose motto is Equality, Education, Empowerment and Environment.**

At the age of 11 Manjunath, from Sandur Taluk, Karnataka, started working in a mine, and continued to slog there till he was 14. He was fortunate enough to get introduced to SEEDS. The organization adopted him and is giving him training in different technical skills as well as educating him.

Manjunath, his two elder sisters and two younger ones were taken care of by his grandparents, since his father ran away from them to get married with another woman. When Manjunath was 4-year-old, his mother passed away. From that day onwards, his grand parents are the ones who is taking care of Manjunath and his sisters.

One of his sister's got married and the rest of three are working as agricultural labourers.

It was to make both ends meet and support his sisters, that Manjunath took up work in mines. For me it was a very difficult task. I had to work from 9-5 and at the end of the day I am given Rs. 100. The amount was too big for a 11-year-old and so was the toil", recalls Manjunath. Breaking granite stones and loading them to tractor trolley was too hectic as far as a 11-year-old was concerned.

Manjunath is now seventeen years of age. "Since, I am the only son, I have to work hard and marry my sisters off. Since grandparents are old, will have to take care of them as well. I hope that after passing tenth and with the technical skills I acquire, I might get a good job soon", believes Manjunath.

## SECTOR - 2 BRICK KILNS

India is the second largest producer of bricks in the world. The industry is highly labour intensive and is dependent upon rural migrant labour. Majority of the workers in the industry are from socially and economically backward communities. The brick industry has the widespread use of advances or loans, the workers take advances from the contractors or owners and work in order to repay these advances (Anti-Slavery International, 2015). Such a situation creates debt bondage. Majority of the workers are from socially and economically backward communities. Usually the families that migrate are engaged in the process of moulding of bricks and work as a unit. Children work along with their parents in order to increase productivity. IPEC notes, “Children often younger than 10 years old haul bricks – each weighing about 2 kilograms – from one place to another all day long, breathing air thick with dust” (International Labour Organization- International Programme on the Elimination of Child Labour, 2011).

According to a research conducted by Rabin Das in West Bengal, three fourth of the children had dropped out of school due to economic hardships in family, family debt, sick parents, etc (Das, 2015). It has been observed that child labor is highest among moulders (Gupta, 2003). They are engaged in the process of

moulding, drying and stacking of bricks, loading and unloading the bricks. A study conducted in 2005 in Chennai had found over 60,000 children in the age-group of six to 14 worked along their parents. However, the child workforce remains invisible as they were considered as mere helpers and not workers.

#### Working and Living Condition

The brick kilns do not provide any proper housing facilities to its workers. The children have no access to primary education (Das, 2015). They work for 12-14 hours a day without any safety gears. There is limited access to drinking water, no provision of toilet facilities. Children are exposed to various hazards. The exposure to heat and smoke cause serious problems such as : “Burns and heat stroke; dehydration; joint and bone deformities; musculoskeletal problems from repetitive motion; blistered hands; bruised feet from dropped bricks; lacerations; breathing difficulties; silicosis and other occupational lung diseases; heat and cold stress; insect bites; poor nutrition; bacterial and viral diseases; injury from moving vehicles” (International Labour Organization-International Programme on the Elimination of Child Labour, 2011), most of them suffer from malnutrition due to the living and working conditions. The children are subjected to abuse by the employers and the great majority do not attend school, despite this being compulsory for children 14 years and under according to the Right to Education Act 2006 (Anti-Slavery International, 2015).

The following is a narrative of a child working at the kiln:



Fifteen-year-old Vasant from Balangir district of Odisha has spent most of his life in Brick kilns in various districts in Andhra Pradesh. His parents had migrated when he was barely 2 years old. He used to loiter around the Brick kiln as a child. "My father says I used to mix mud and fill the mould with my tiny hands when I was three or four", says Vasant.

For the last eight years, Vasant and his family have been in the same brick kiln in Ranga Reddy, and Vasant has worked as a loader for the last two years. Look at the Brooklyn is seasonal in nature. Almost all migrant workers, including Vasant's parents, go back to the village after the season is over. Vasant stays back. He says this is the period when loading work begins and he stays back to do this work. His parents had taken an advance amount that they could not repay. They were allowed to go home only because Vasant stayed back. Vasant may be seen as a pawn pledged to the employer to work off his father's debt.

Vasant's father OV Chhatriya had taken a loan of Rs.55,000 from the kiln owner which Vasant now tries to repay by loading bricks and ash. Usually four workers together load the truck and a truckload of ash means rupees 1600 for the team. They manage to load only a single truck a day. Loading work is strenuous and physically demanding, and for a 15-year-old boy, it is especially stressful. However, Vasant works all through the day. "If I am sick for a day the employer doesn't say anything but a second day of sickness is not tolerated", says Vasant. All Vasant's Child like innocence has vanished. He says he cannot visualise a life outside the brick kiln. It has become so much a part and parcel of his life

\* (Vasant, the 15-year old Loader, pp 50, Labour File, Vol 9, No 1-2, Brick kiln workers in India, Migrating into Bondage, Jan-April 2014)



## **Moulder..., Domestic Maid..., Agri Labourer...:**

### **Anamika Uraon is only Thirteen...!**

Anamika, a 13 year old girl from Ranchi Jharkhand, is a brick kiln worker in Patna, Bihar. The family work as moulders in the kilns. “My parents are poor and landless so when they come back to the village they work on somebody else’s agricultural land. I too had to leave studies as they could not afford to pay fees” says Anamika.. She has gone to school only up to 3<sup>rd</sup> std.

Anamika’s family work as molders in the brick kiln. “Our day starts early morning with taking the mud in thela (handcart) and then moulding it into bricks. All of us will have to sit continuously, mix mud and mould it into bricks”, says Anamika. She and her mother takes break in between to cook food and do other household chores.

Anamika had a bitter experience to share, where a family friend approached her parents promising to take care of Anamika and her education. “ I travelled with them and was shocked when they gave me household work. They made me wash clothes clean utensils, mop the floor, made me sleep on the floor and eat their food waste.... Life was miserable... malikin even thrashed and gave me gaali’s”, recalls Anamika. She somehow managed to contact her father and brief her plight, who fortunately could trace the address and take her back home.

Anamika feels brick kilns are better than the domestic work. “Here whatever happens, I have parents and family with me to support”, says Anamika.

The family do not have any land of their own so during off season, the entire family works as agricultural labourers. Anamika works on agriculture land and earns around Rs 100 per day and Rs 50 for half a day’s work. The strenuous physical farm work has taken its toll on her health.

“I would prefer to study instead of working, but my parents cannot afford it...they will need whatever little I can earn” says Anamika.

## **Ideally Children Should Not**

### **Work – Shyam Babu**

Shyam Babu is a 15-year-old boy from Fatehpur Uttar Pradesh. Shyam's entire family - father, mother, sister and brother - work as moulders in a brick kiln in Fatehpur.

Shyam's father had taken an advance payment of rupees 20,000 for his wife's eye operation and so his whole family was working as moulders to repay the advance. The family earned rupees 500 for 1000 bricks. The money they get was not sufficient enough for the entire family to survive and everyday, repaying loan remains a dream.

Work in the brick kiln was not that easy for the family. "We have to get up very early in the morning and begin our work and continue till late evening. There are days where we don't sleep at all so that somehow we can manage to make more bricks and repay the loan.

Shyam left school when he was in the 5<sup>th</sup> standard to take up moulding work. "My father has been working at the brick kiln since a long time, I too dropped out of school to work and try help to repay the loan" says Shyam

Life in brick kilns was without any facilities. The money the employer gave his father was not even sufficient enough to buy food for the family. Verbal abuse was quite common. Shyam's mother often complained about backache and pain in lower

abdomen. “if we fall sick, we couldn’t afford to go to hospital, what we could was to approach the local quack”, says Shyam.

According to Shyam, he never wanted to work but had no choice and this work came with its own risks and health issues. “Ideally children should not be allowed to work but there are family compulsions and most important is survival” says Shyam.

## **Children Work Not of Choice, But Compulsion – Ravi Kumar**

Ravi Kumar is a 17-year-old from Fatehpur Uttar Pradesh. Poverty, unemployment, destitution and debt forced him to drop out of his school when he was in the 6<sup>th</sup> std. “My younger sister was always ill and for her treatment we wanted lot of money. She was more precious to us than my education, so the entire family decided to take up work in a brick kiln”, says Ravi.

Without realizing that they are getting entrapped, through the help of a middlemen, the entire family – father, mother, three brothers and two sisters – got work as patheras (moulders) at a brick kiln in Fatehpur. From that day onwards, these landless poor, are toiling day and night for survival. Ravi started working with kilns when he was 11 year old and now 17, he is still in brick kilns.

Work in a brick kiln is like getting entangled in octopuses tentacles. With the lure of advance and not being able to repay the debt, they have to work day night. For moulding 1000 to 1200 bricks, they are paid Rs. 750. Working hours has no limit, right from early morning, they slog till midnight only to make more bricks so that somehow they can pay of the advance amount

. “at times, the work in brick kilns turns out to be hazardous and I have seen some co-workers badly burnt while taking out bricks from furnace”, says Ravi. When workers are injured, many a times, the owner helps them get them medical aid. But, if it is a

bad employer, he asks them to leave immediately to their village” says Ravi. Ravi firmly believes that children are working in brick kilns not because of choice but out of compulsion.

## SECTOR - 3 DOMESTIC

According to ILO, Child domestic work comprises of “children’s work in the domestic work sector in the home of a third party or employer”. This definition of child domestic work includes both permissible as well as non permissible situations. ILO has defined child labour in domestic work as domestic work done by children below the prescribed minimum wages in hazardous conditions. According to ILO, “17.2 million children are in paid or unpaid domestic work in the home of a third party or employer; of these, 11.5 million are in child labour, of which 3.7 million are in hazardous work (21.4% of all child domestic workers); 67.1% of all child domestic workers are girls; 65.1% of all child domestic workers are below 14 years: 7.4 million aged 5 to 11 and 3.8 million aged 12 to 14”.

Household chores done by children at their homes, under the supervision of their family members are important part of growing up and familial life. However, when a child’s education get interfered due to excess of work load, it may result into child labour. A child doing household work and a child in domestic work might do the same work but in the former domestic employment element is missing. Therefore, according to ILO definition household chores done by children should not be

considered as domestic work. However, when a person under 18 perform these services for long hours, in an un healthy environment with unsafe equipment or heavy loads, in dangerous locations, and so on, they could be considered as “hazardous unpaid household services” and constitute child labour (International Labour Organization-International Programme on the Elimination of Child Labour, 2011).

Child domestic work is difficult to deal with because of its connections with socio- cultural patterns that usually see child labour in a positive light-especially for girls. Due to socially and culturally accepted norms, women performing domestic chores within and outside the household is considered as the perpetuation of her traditional roles and responsibilities. Child domestic work as a form of child labour persists with such a view.

The root causes of child domestic labour are- poverty and its feminisation, lack of access to education, social exclusion, gender-ethnic discrimination, increasing debt of parents which force the children to join the labour market etc. Domestic work remains socially and economically invisible as it is not always considered as a form of economic activity, especially when it is performed by children.

Some of the hazards in child domestic work are – “long and tiring working days, carrying of heavy loads, using toxic chemicals, managing dangerous items such as- knives, hotpans and axes, facing sexual and verbal abuse at work place” etc. These hazards should be associated with violations of fundamental rights of the



child – denial of education, healthcare facilities, denial of regular contact with their parents etc. these factors hinders in the overall development of the child.

Other than physical injuries, accidents and illnesses, it has been demonstrated that child domestic workers suffer disproportionately from various types of abuse. Following is one such case:

“A 2006 study in Bangladesh showed that almost 70 per cent of child domestic workers experienced physical abuse and systematic beatings, either to ensure compliance or as punishment when perceived to be slow or uncooperative. Nearly half of the physical abuse resulted in bodily injury and very few of the children received medical attention”. (International Labour Organization- International Programme on the Elimination of Child Labour, 2011)

## Poverty and Penury Forced Me to Domestic Work – Sharda



The last five years, 15-year-old Sharda from Jaydevpur, Telengana works as a domestic labour. She studied up to 4<sup>th</sup> std and at the age of 10 took up domestic work in a household for a salary of Rs. 1000.

Sharda's family – her parents, three sisters and two brothers – are staying in a rented house. "Every income I get was valuable for the family. Three of my sisters could be married off through our collective effort", says Sharda proudly. Sharda's father was a daily wage labourer and her mother works as domestic help. "My sisters are settled. One of my brother too, who works as a driver, got married and started staying separately. Now its me and my brother, who is mason, supports the family", says Sharda. Since her dad is unwell, mother cannot go for work frequently.

Her job starts at 9 am. She dusts, sweeps and mops the house, her tiny hands, cleans the utensils and then she do baby-sitting for her malkins one-year-old son. When everyone at the house finishes eating food, she is fed with all left-overs. Sharda is now accustomed to the situation and she has been working there for five years. Every year the employer hikes Rs. 500 in her salary and so is her workload. Now she has make food, wash clothes and all household activities.

"I was very good at my studies, and I would like to continue my education. But, I cannot afford to do so. Instead, what I am trying to do is to take up work in one or two more houses so that my mother need not go to work, leaving my ailing father", says Sharda.

More house means, more income and at the same time more hard toil. Besides, Sharda helps her mother with all household chores as well.

Sharda now feels that she is destined to do domestic work. “even my married sisters are doing the same. They are doing this work at their home for their family and so no money. I am doing it for others and so getting paid”, she boasts.

## Domestic Work is a Dirty Work for Children – Pooja



17 year old Pooja hails from Vasanth Nagar Mysore Karnataka. She lost her father when she was studying in first standard. It was her mother who worked as a domestic Labourer brought her up.

Pooja is a live-out maid and started working as a domestic help, at a very early age. She used to assist her mother and later on worked independently. “The employers never considered me as a kid those days”, recalls Pooja. They used to be very harsh with me”, she says.

Pooja’s day start early morning. She has to reach her workplace by 6 am and continue till 10 do the household chores like cleaning, sweeping and moping. Her work includes to take her employers two-year-old son. She get Rs. 2000 every month from this household.

From 11.00. am to 12 pm, Pooja does cleaning and dusting in another house and get paid Rs. 900. The amount she earns is a good support for the family.

It was the intervention an NGO – Rural Literacy and Health Programme – that changed the life of Pooja. They made her understand the need for education. Now at the age of 17, through open schooling, Pooja has cleared Xth std. She continues with her work and is also looking to get work in more houses.

“Domestic work is a dirty work for children”, says Pooja. Verbal abuses and physical torturing happens quite often and the worst part is to eat or carry home the left-over stale food and bakery items”, she adds. Pooja affirmatively argues that the parents should make their children study, not to work. But at the same time, she loudly wonders, how can they afford....?



## Enjoying Childhood, Maya Kushwah Wants to Lead a Child'd Normal life



Maya Kushwah is only 15-years of age, but she works in a hospital in Meera Nagar, Bhopal as domestic maid, sweeping, mopping and cleaning hospital tables. She does it in the evening 5.30 pm to 6.30 pm and get paid Rs 800 monthly.

Prior to that, in the morning hours too Maya is busy. She joins her parents who are ragpickers to collect kabari and sort it from the area. She takes care of her two younger sisters and two younger brothers.

Maya dropped out of school when she was in 5<sup>th</sup> Std. Added to the poverty and problems back home, she says, she could never like the school. “Teachers do not have time for teaching after gossips”, says Maya. According to her, children either runaway from school and join in another school or abruptly stop going to school.

Maya worked as a domestic help in a bungalow for a year, but was forced to leave it due to torture and abuse. She says, she hates to recollect those days of her life.

Maya was quite often teased from her school pointing out her rag-picking status. Her brothers are now being teased by classmates and they too prefer to stop going to school. Besides, Maya’s parents are drunkards they are quite demanding. “There is undue pressure on her from family and so there is a tendency for to run away”, says the NGO activists of NIWCYD (National Institute for Women, Child and Youth Development, who is counselling Maya. With the organisation’s support Maya has joined school again and under open school system will be writing 9<sup>th</sup> std exams.

“I am only 15, I would like to lead a life of a normal child, enjoying childhood. But my fate is to slog. If, I can continue with my studies, I would love to become a teacher” says Maya.



## SECTOR - 4 GARMENT

The garment industry's contribution to the foreign earnings of India is 16.63% and employing over 3.5 million workers (Ribhu & Agrawal). In India, there are five different garment production hubs, Delhi, Mumbai, Bangalore, Chennai and Tirupur/Coimbatore(Tamil Nadu). The industry also has sub-contracting units engaging in the process of manufacturing. The work is not just limited within a factory, home-based production also takes place (ICF International, 2012). However, the industry uses various strategies to reduce the cost of production such as the employment of children, low wages, etc. It is hard to estimate the number of child labourers in the garment industry. A study conducted in Delhi(2015), which is considered as a hub of garment export industry in India, has estimated a total of 8044 children are involved in garment related activities in five districts of Delhi.

According to Save The Children's report:

“Child labour in the garment industry is found in two locales in the unorganised sector of the garment industry:

– Households – Unskilled work is undertaken by children along with women and other family members to supplement the family income (e.g., thread cutting).

- *Addas* - Small household based units, where a group of workers, children and adults unrelated to each other worked together (e.g., embellishment, embroidery etc.)”

Another research conducted in the spinning units of five textile and garment enterprises in Tamil Nadu(2014) found 60% of the total laborforce consisted of girls and young women working under the Sumangali Scheme. 60% were below the age of 18 when joined. They are engaged in the production of readymade garments. In the Global knitwear sector, textile and garment industry in Tamil Nadu is a major hub.

Children working in the garment sector are mostly concentrated in the outsourcing unit, they work at the level of households along with women and other family members or in small household units where they work in groups. They are involved in the process of: embroidery, cutting thread, cutting and trimming, stitching, dyeing etc. In many of the cases it has been observed that the child is not paid in the initial months as the child is made to learn the skill (Ribhu & Agrawal).

#### **Working and Living Conditions:**

The garment industry typifies poor conditions of work. Various researches conducted had observed that the working hours were long, around 10 hours a day. Most children start working at dawn till the evening. Some had observed young girls working at spinning mills for 60 hours a week, forced overtimes and they had no contact with the outside world. They were not allowed to take leave and their movement was restricted. The working conditions were harsh. Children working at the level of the

household was not given any fixed payment. Migrant families from Uttar Pradesh, Bihar, Jharkhand and West Bengal were seen as working in the informal garment industry. There is no proper housing facilities for them, they live in slums.

The tiny spaces where children work have little lighting and inadequate ventilation due to which they are vulnerable to risks. With the exception of large units, wages are piece-rated in small units. Most children are ill-nourished, have back pain, deteriorating eye-sight, etc. Some children engaged in thread cutting would hurt their hand from using the cutter. At times, children are abused verbally and physically.

Following is the suicide case of a 14 years old girl who worked at a spinning mill(Sulochana) in Tamil Nadu:

“Radhamma, a 14-year-old girl who had been working and living at Sulochana Cotton Mills for a year, was admitted to hospital on 9 March 2014. Shortly after her admission to the hospital, Radhamma died. Reportedly, she committed suicide by consuming nail polish. According to the Tirupur People’s Forum (TPF), Radhamma was depressed because of her excessive working hours. Like many others, Radhamma joined Sulochana after she was promised good food, decent accommodation, the chance to study while working, eight hours of work a day, weekly holiday and a lump sum payment at the end of three years.

After Radhamma’s death, TPF submitted a petition to the District Collector of Coimbatore demanding that:

1. Sulochana Cotton Mills should pay INR 500,000 (€6,134) in compensation to Radhamma's family. 2. The District Collector should order an enquiry into the death of Radhamma.

3. The Child Welfare Committee and Child Right Protection Committee of the Coimbatore District should assess the safety of girls and young women working in textile mills in the Coimbatore District. Sulochana's response to this case: "The age of above said Radhamma was 17 as per our mill records and govt. records. She has committed suicide, which is her own decision. Whatever was promised to her before joining our mill was provided during her employment. Case was fully investigated by police and CWC Team and closed by govt".

## Strong Intervention by Government and NGOs will Bring a Better Future – Kausalya



**S Kausalya, 17-year-old, from Karayampalam Village, Coimbatore is working for the last 3 years in a garment industry. Kausalya's father Subramani was an NREGA worker and he passed away three years ago. Sarojini, her mother, also**

works under the NREGA scheme. Kousalya has two elder sisters, both of whom are married and settled. Kausalya dropped out of school when she was in 8<sup>th</sup> std.

Earlier, it was Kauslaya's sister who was working in the industry, but later when she got married, Kausalya requested for the job and got through in the mill.

Kausalya joined as an helper and her job was to do trimming of threads from the garment and pressing the finished product. She had to work 8 hours continuously to get Rs. 100 per day. Many a times, she will be forced to take up four hours of overtime work for which she will be paid Rs. 120. After 6 months of experience, she was taught to stitch garments and her salary was raised to Rs. 200

Work in the garment industry is not easy, says Kausalya. "there was no leave and the work was physically very demanding as the trimming scissors used were very heavy. Moreover, if there is a slight delay in the work, the supervisor/owner shouts at her.

The company produces shorts and dresses for children. After started stitching garments, she has to sit continuously for hours. Even a 5 minutes break to the toilet was questioned. At the end of the day she says, she gets totally exhausted and tired. "But there is no rest even at home. Once I go back, I have to help mother with all household activities", says Kausalya.

She is now under the guidance of an NGO – Care Trust. CareTrust is giving computer training for her and even pay

money for her travel from work site to the computer centre. She is preparing for her 10<sup>th</sup> std exams as well. “If I have to learn computer and get a certificate I should be a tenth pass-out”, says Kausalya.

Kausalya would like to do something for those working children in garment industry. “It is so frustrating to see young children struggle in the industry. May be a strong intervention by the government and NGOs might change the situation”, she believes.



## **Girl Child is not Homemaker Alone... Give Chance, She can Scale Heights – Kalai Selvi**



**Kaiaiselvi, from Thalapatti, Viralimalai in Puthukottai have a narrow-escape story to share from being getting entrapped under the sumangli scheme in a spinning mill. She was working in Bannariyamman Spinning Mill under the scheme with an offer of**



Rs. 50000 after 4 years of service and monthly Rs 4000 as salary (daily Rs. 120 for 12 hours of work). Though they said monthly salary, she was not paid even after she asked for it. The undue work pressure and denying her the salary, Kalaiselvi decided to leave the job. "I left without insisting on the salary, because I thought, If I insisted, they might not let me go". Says Kalaiselvi.

She is now working with KKB mills, in Viralimalai. She works here from early morning 6.00 am up to 4.30 pm. If there is overtime she will have to work from 4.30 pm to 11.30 pm. She is paid Rs. 250 per shift and if there is any leave taken, money will be deducted from her salary.

Kalaiselvi has three elder sister, 1 elder brother and 1 younger brother. Though good at studies, she was asked to stop going to school when she was in 8<sup>th</sup> std. "My parents believed that girls should not study, it is boys who should be given education, because they are the one who will support the family", she says. Her elder brother is doing his MCom and younger one just finished his plus two. "We four sisters slogged day and night to make them study", says Kalaiselvi.

They live in their own house, but do not have any land for cultivation. Her father Nallayanna and mother Manikkam works as farm labourers.

Kalaiselvi is not at all happy with the work in spinning mill. It is very strenuous and for even a small mistake we will be blamed for. Everyday the supervisor swear in different name and not

allow us to use the toilet more than once. Even if you are sick one will have to work, and any leave taken there will be a wage cut.

According to her, the condition in almost all mills are the same – hard work, verbal abuse and no freedom. “If given a chance, I love to continue with my studies. But what to do, even parents are not giving us the respect we need. A girl child is not a home maker alone, allow her to study, she can scale heights, if proper support is given”, she says.

## Women to Make Life of Male Members Comfortable...? A Perplexed Karthika!



N Karthika, was full of tears, when she narrated how her brother, a construction worker, who after his marriage asked her to discontinue education, since he cannot support the family any longer. Karthika's father Nalluchamy a quarry worker, passed

away when she was only 5 years of age. Her mother Chinnamma works under NREGA and her income was not sufficient enough to run the household.

After completing her 10<sup>th</sup> std, she discontinued her studies and started working in KKP Spinning Mill, Viralimalai, Puthupettai and has now gained 2 and half years of experience. Her job is to wind thread into huge bobbins. “The task is quite difficult because the the thread might get cut or entangled, and the work stops. If the work is stopped even for a moment, the supervisor shouts at us”, says Karthika.

Since Karthika was very keen to continue with her education, she couldn't like the work at all. Besides, the work was hectic and she used to get body pain by the time she finishes it.

She is paid Rs 250 per day per shift. If she takes up overtime, she will be paid Rs 250 extra. Every week she is forced to take up 3 or 4 OTs.

There are a large number of girls between the age group of 14-16 working in the mill, and it is the girl children who work most. “In the name of family and sacrifice for the family, girls are made scape goats by the society. Are women only meant to make life of male members comfortable? Can girls expect a new change in the society? Can they ever witness a new dawn? Karthika's mind has innumerable such questions, unanswered.

## No one to Stand for...

### We Suffer Silently – Aftab

Aftab aged 15 hails from Panipat Haryana. He along with his family migrated from Kheerabaagpat in search of better opportunity. His father was involved in rug making from which he earned only Rs 100 per day. A family with 5 young children could hardly survive with that kind of money so they decided to move to a larger city. In Panipat his father worked as a contract worker and Aftab who was only 11 year old worked in a spinning mill for about one and a half years.

“I have cleared my 8<sup>th</sup> standard exam in school but could not continue due to poverty” says Aftab. Since there were no Government schools nearby and the private schools had fees that they could not afford, he had no choice but to abandon his studies and look for work” he says with disappointment written all over his young face.

Asked about his experience at the spinning mill he says “ the marked difference is in the wages...we children worked the same hours did similar work but were paid much less...an adult got Rs 5000 whereas a child got only Rs 2500 per month”

He joined an organization called Aident and has been with them for the last three years. With the intervention of Aident he joined

school again and was also taught textile printing by the organization.

Aftab says that one of the major concern is the adult workers power to negotiate by means of strikes which result in wage hike, but a child worker has no power and so faces discrimination.

“I have to work all days, have a half day on Sundays...if I took leave then Rs 150 was deducted from my salary” there is so much discrimination he says.

With no one to stand for us we suffer silently...its not proper to let children work because it can harm them physical as well as mentally he says.

## SECTOR - 5 HAWKERS & VENDORS

The Street Vendors Act, 2014 “aims at fostering a congenial environment for the urban street vendors to carry out their activities without harassment from any quarter. It also provides for regulation of urban street vending and is uniformly and mandatorily applicable to all the States and Union Territories”. It aims to protect the livelihood rights and social security of urban street vendors. According to the Act, “street vendor” means “a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific.”

In India, there are around 10 million street vendors. Roughly 2% of entire city population are street vendors. They have contributed greatly to the country’s savings and GDP. According to Sharit K. Bhowmik, “Mumbai has the largest number of street vendors numbering around 250,000. Kolkata has more than 150,000 street vendors. Ahmedabad and Patna have around

80,000 each and Indore, Bangalore and Bhubaneswar have around 30,000 street vendors.”

Although an accurate data cannot be provided but a significant number of children are also part of street vendors, who sells products or provide services on the street. Laboring on the streets expose children to “extreme weather, traffic, violent people and, in the case of scavengers, potentially contaminated materials. Children on the street also are exposed to violence, crime, illicit drugs, tobacco, alcohol and sex, all elements that can hurt them physically and mentally.”



## What I Could not Achieve, Let Him...

### Ramniwas, the *Chaiwala*

RAMNIWAS Is an ambitious young 16-year-old boy from Panipat Haryana. His father owned a small tea stall with the meager money he earned he had to support a large family of wife and 6 children. While Ramniwas's elder brothers' found work in local textile factories, he at a young age of 8 did part time work at a saw mill for 2 years.

He studied up to eighth standard at a nearby school. The sudden demise of his father abruptly put an end to his schooling, he had to discontinue after 8<sup>th</sup> standard.

Says Ramniwas "The responsibility of the running the tea stall fell on me...I had to spent long hours from 6 am to 8 pm at the Tea stall and I earned only around Rs 400 for the day".

Ramniwas has very good memories of his school going days but it was impossible for him to pursue both his work and studies. Given a chance he says he would any day prefer studying to hours of tolling at the tea stall.

"Making tea for ones own self, is not a difficult task, but to make it for others according to their varying taste is quite a difficult exercise", says Ramniwas. His regular clients do not have any problem with him, but he says, the new clients often shouts and also come up with many demands.

The responsibility of taking care of his mother and younger brother who is studying in school dashed any hope of his to attempt going back to school. Ramniwas says “I discourage my younger brother from wasting time at the stall and hope he focused on his studies. What I could not achieve, let him... not have that regrets”.

# CONCLUSION

## CHILDHOOD LOST: AN "ACT" OF VIOLATIONS

On 29th July 2016, to the dismay of all child rights activists, concerned citizens and the child population in the country, Sri Pranab Mukherjee, President of India, gave his assent to the The Child Labour (Prohibition and Regulation) Amendment Act 2016, which intrudes upon the rights of children in India. The bill, though prohibits employment of children below 14 years of age in all occupations, allows adolescents to work in non-hazardous occupations and processes.

In a country, where millions of children are slaving either forced or out of sheer necessity... where concerned citizens and child rights groups are struggling to end the menace called child labour... the bill got assent and has now become an Act.

Though the government interpreted that the amendment will set a balance between the need for education for a child and reality of the socio-economic condition and social fabric in the country, the truth, according to critics and child rights activists, is that the basic

protections to the most vulnerable working population - the child labourers - has been embittered.

“I go to school, but rush back when the classes are over to my Ustad Ji to do my work. Thinking of the work I need to do, many a times, I cannot focus on my studies”, says 15-year-old Noor Mohammad, hailing from Panipat, Haryana who works as an electrician. He joined as a trainee under an electrician, whom he addresses as Ustaad Ji. Noor’s working hours begin from 3 pm to 7pm on weekdays and 9 am to 7 pm on weekends. “My parents knew that I was being paid very less and had to work long hours but they insisted I was employed” says Noor. His family consists of his father, mother, one brother and two sisters. He had to contribute to the family income. Noor said he wanted to study as well as work. Like any other child, Noor too would be happy if he could attend school without the burden of work, play with his friends after school hours, make weekends memorable wandering around. Like a grown up he says – “*Paisa kamana hai..., parivar ko support karna hai...*”

Noor Muhammad’s is one among the millions of children in India who are employed directly or indirectly as cheap labour.

Can the CLPRA become a non-negotiable Act...? Can the word “Regulation” be removed from the name of the Act and more emphasis given to abolition...? Visible changes might come when the Act becomes non-negotiable and the penal provisions for violators are enhanced. Employment of children should be deemed as a cognizable offence. Enforcement machinery should

be reinforced and thereby clear vibrant message should be transpired that under no circumstances child labour will be tolerated.

# ANNEXURE I

## **Campaign Against Child Labour (CACL) Position on Child Labour (Prohibition and Regulation) Amendment Act (CLPRAA), 2016**

In July 2016, the Parliament passed the Child Labour (Prohibition and Regulation) Amendment Bill, 2016. Rajya Sabha passed it on 19th July and Lok Sabha on 26th July 2016, which got the President's assent on 29<sup>th</sup> July 2016. Government of India published it in the Gazette as the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (CLPRAA, 2016) and the Act came into force on 01 September 2016. The CLPRAA, 2016 amends the Child Labour (Prohibition and Regulation) Act, 1986, which prohibited employment of children below 14 years in 83 hazardous occupations and processes, and apparently bans employment of children below 14 in *all occupations and enterprises*.

### **Key Aspects of the CLPRAA, 2016**

The Amendment, reportedly, was to align Indian Child Labour law with (i) ILO's Minimum Age Convention and Worst Forms of Child Labour, (ii) United Nation's Convention on the Rights of the Child and (iii) with amendment to India's Constitution (Article 21A and Article 45) making education a fundamental right to all children.

Section 3(1) of the Act prohibits employment of children below 14 in *all occupations and enterprises*. However, Section 3(2) makes two exclusions; the prohibition is not applicable where the child,—

“(a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed:

Provided that no such work under this clause shall effect the school education of the child.”

The CPLRAA, 2016 inserts a new Section 3A which says, “No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule”

The Amendment brings in substantial changes to the 1986 Act.

It introduces term ‘adolescent’ into the Child Labour (Prohibition and Regulation) Act and defines it as a person who has ‘completed his fourteenth year of age but has not completed his eighteenth year;’ and prohibits (Section 3A) employment of adolescents in certain hazardous occupations and processes. Here it does three things, one, takes away the distinction between hazardous occupations and processes (Schedules A & B of 1986 Act) and substitute it with one Schedule; two, the substituted Schedule just lists three items (1) mines, (2) inflammable substances or explosives and (3) hazardous process instead of instead of 18 occupations and 65 processes in 1986 Act; three, the substituted Schedule explains that ‘hazardous processes’ has the meaning assigned to it in clause (cb) of the Factories Act, 1948.

This change to the Act is in contradiction with the Juvenile Justice (Care and Protection of Children) Act, 2015, which defines child as a person who has not completed eighteen years of age. As opposed to an adolescent, a ‘child’, according to the amendment, ‘means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more’. The amended Act says that child labour has been prohibited in *all occupations and enterprises, except those run by his or her own family, provided that education does not hampered*. The exceptions make the prohibition meaningless.

The amendment offers explanations to three critical terms, which are part of the exclusions: it says, (a) “family” in relation to a child, means his mother, father, brother, sister and father’s sister and brother and mother’s sister and brother;

(b) “family enterprise” means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(c) “artist” means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).”

### **CACL’s Position**

CACL considers that these steps are retrograde and will encourage and legalise child labour instead of its purported objective of prohibition of child labour from all

occupations and processes. It legalises family and family-based occupations, removes the restrictions on hours of work in such occupations and excludes such occupations from the original schedule of hazardous occupations / processes.

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

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

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

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

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



## Do Children Need to Work...? Profiles of Working Children in India

The amendment extends the freedom to engage children as artists and in audio-visual industry including advertisement, at a time when there are no ground rules evolved to protect children engaged in such activities. CACL considers this a serious lapse in the context of increasing commercialisation of audio-visual industry.

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

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

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

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

Campaign Against Child Labour (CACL) proposes Child Labour System (Abolition, Prevention and Rehabilitation) Bill, 2017 for complete eradication of child labour up to 18 years of age in line with UNCRC and National Policy for Children, 2013. This will

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enable us to attain the Sustainable Development Targets 4.1 (By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes) and 8.7 (Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms)

# ANNEXURE II

## **The Child Labour (Prohibition and Regulation) Act, 1986**

### **THE SCHEDULE (See Section 3)**

#### **PART A: OCCUPATIONS**

An occupation connected with-

1. Transport of passengers, goods or mails by railway;
2. Cinder picking, clearing of an ash pit or-building operation in the railway premises;
3. Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train.;
4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
5. A port authority within the limits of any port;
6. Work relating to selling of crackers and fireworks in shops with temporary licences;
7. Abattoirs/slaughter Houses;
8. Automobile workshop and garages;
9. Foundries;
10. Handling of toxic or inflammable substances or explosives;
11. Handloom and powerloom industry;
12. Mines (underground and underwater) and collieries;
13. Plastic units and fiberglass workshops;
14. Employment of children as domestic workers or servants;
15. Employment of children in dhabas (roadside eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centres;
16. Diving;

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17. Circus;

18. Caring of elephants.

PART B

PROCESSES

1. Bidi-making
2. Carpet-weaving including preparatory and incidental process thereof;
3. Cement manufacture, including bagging of cement;
4. Cloth printing, dyeing and weaving including processes, preparatory and incidental thereto;
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 including processing and polishing of granite stones;
12. Manufacture of slate pencils (including packing);
13. Manufacture of products from agate;
14. Manufacturing processes using toxic metals and substances, such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos;
15. 'Hazardous process' as defined in section 2 (cb) and 'dangerous operation' as notified in rules under section 87 of the Factories Act, 1948 (63 of 1948);
16. Printing as defined in section 2(k) (iv) of the Factories Act, 1948 (63 of 1948);
17. Cashew and cashewnut descaling and processing;
18. Soldering processes in electronic industries;
19. 'Aggarbati' manufacturing;
20. Automobile repairs and maintenance including processes incidental thereto, namely, welding, lathe work, dent beating and painting;

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21. Brick kilns and roof tiles units;
22. Cotton ginning and processing and production of hosiery goods;
23. Detergent manufacturing;
24. Fabrication workshops (ferrous and non-ferrous);
25. Gem cutting and polishing;
26. Handling of chromite and manganese ores;
27. Jute textile manufacture and coir making;
28. Lime kilns and manufacture of lime;
29. Lock making;
30. Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scrapping of lead paint, burning of lead in enamelling workshops, lead mining, plumbing, cable making, wire patenting, lead casting, type founding in printing shops. Store type setting, assembling of cars, shot making and lead glass blowing;
31. Manufacture of cement pipes, cement products and other related work;
32. Manufacturing of glass, glassware including bangles, fluorescent tubes, bulbs and other similar glass products;
33. Manufacturing of dye and dye stuff;
34. Manufacturing or handling of pesticides and insecticides;
35. Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry;
36. Manufacturing of burning coal and coal briquettes;
37. Manufacturing of sport goods involving exposure to synthetic materials, chemicals and leather;
38. Moulding and processing of fiberglass and plastic;
39. Oil expelling and refinery;
40. Paper making;
41. Potteries and ceramic industry;
42. Polishing, moulding, cutting, welding and manufacturing of brass goods in all forms;

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43. Process in agriculture where tractors, threshing and harvesting machines are used and chaff cutting;
44. Saw mill-all processes;
45. Sericulture processing;
46. Skinning, dyeing and processes for manufacturing of leather and leather products;
47. Stone breaking and stone crushing;
48. Tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form;
49. Tyre making, repairing, re-treading and graphite beneficiation;
50. Utensils making, polishing and metal buffing;
51. 'Zari' making (all processes);
52. Electroplating;
53. Graphite powdering and incidental processing;
54. Grinding or glazing of metals;
55. Diamond cutting and polishing;
56. Extraction of slate from mines;
57. Rag picking and scavenging;
58. Processes involving exposure to excessive heat(e.g. working near furnace) and cold;
59. Mechanized finishing;
60. Food-processing;
61. Beverage industry;
62. Timber handling and loading;
63. Mechanical Lumbering;
64. Warehousing;
65. Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, agate industry.

# ANNEXURE III

रजिस्ट्री सं० डी० एल०—(एन)०४/०००७/२००३—१६

REGISTERED NO. DL—(N)04/0007/2003—16

  
**भारत का राजपत्र**  
**The Gazette of India**

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 30th July, 2016/Shravana 8, 1938 (Saka)*

The following Act of Parliament received the assent of the President on the 29th July, 2016, and is hereby published for general information:—

### THE CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016

No. 35 OF 2016

[29th July, 2016.]

An Act further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2016.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61 of 1986.

2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

Amendment of long title.

“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”.

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Amendment of short title.

3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures "the Child Labour (Prohibition and Regulation) Act, 1986", the words, brackets and figures "the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986" shall be substituted.

61 of 1986.

Amendment of section 2.

4. In section 2 of the principal Act,—

(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:—

'(i) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;'

(b) for clause (ii), the following clause shall be substituted, namely:—

'(ii) "child" means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;'

35 of 2009.

Substitution of new section for section 3.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

Prohibition of employment of children in any occupation and process.

"3. (1) No child shall be employed or permitted to work in any occupation or process.

(2) Nothing in sub-section (1) shall apply where the child,—

(a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed:

Provided that no such work under this clause shall effect the school education of the child.

*Explanation.*—For the purposes of this section, the expression,

(a) "family" in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;

(b) "family enterprise" means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(c) "artist" means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2)."

Insertion of new section 3A.

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

Prohibition of employment of adolescents in certain hazardous occupations and processes.

"3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule:

Provided that the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this Act."



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Sec. 1]	THE GAZETTE OF INDIA EXTRAORDINARY	3
7. In section 4 of the principal Act, for the words "add any occupation or process to the Schedule", the words "add to, or, omit from, the Schedule any hazardous occupation or process" shall be substituted.		Amendment of section 4.
8. In section 5 of the principal Act,— (i) in the marginal heading, for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted; (ii) in sub-section (J), for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted.		Amendment of section 5.
9. In the heading of Part III of the principal Act, for "CHILDREN" substitute "ADOLESCENTS."		Amendment of Part III.
10. In section 6 of the principal Act, for the word and figure "section 3", the word, figure and letter "section 3A" shall be substituted.		Amendment of section 6.
11. In section 7 of the principal Act, for the word "child", wherever it occurs, the word "adolescent" shall be substituted.		Amendment of section 7.
12. In section 8 of the principal Act, for the word "child", the word "adolescent" shall be substituted.		Amendment of section 8.
13. In section 9 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted.		Amendment of section 9.
14. In section 10 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted.		Amendment of section 10.
15. In section 11 of the principal Act,— (a) for the word "children", the word "adolescent" shall be substituted. (b) for the word "child", wherever it occurs the word "adolescent" shall be substituted.		Amendment of section 11.
16. In section 12 of the principal Act,— (a) in the marginal heading, for the words and figures "sections 3 and 14" the words, figures and letter "sections 3A and 14" shall be substituted; (b) for the words and figures "sections 3 and 14", the words, figures and letter "sections 3A and 14" shall be substituted.		Amendment of section 12.
17. In section 13 of the principal Act, for the word "children", wherever it occurs, the word "adolescent" shall be substituted.		Amendment of section 13.
18. In section 14 of the principal Act,— (a) for sub-section (J), the following sub-sections shall be substituted, namely:— "(J) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:  Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.  (IA) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:		Amendment of section 14.

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Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A) the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence."

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2A) Notwithstanding anything contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees."

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

Insertion of new sections 14A, 14B, 14C and 14D.

19. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Offences to be Cognizable.

"14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

2 of 1974.

Child and Adolescent Labour Rehabilitation Fund.

14B. (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.

(2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

(3) The amount credited to the Fund under sub-sections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide.

(4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

*Explanation:—* For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239A of the Constitution.

Rehabilitation of rescued child or adolescent.

14C. The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

Compounding of offences.

14D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

2 of 1974.



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(2) If the accused fails to pay such amount for composition of the offence, then, the proceedings shall be continued against such person in accordance with the provisions of this Act.

(3) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(4) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought in writing, to the notice of the Court in which the prosecution is pending and on the approval of the composition of the offence being given, the person against whom the offence is so compounded, shall be discharged.”.

20. After section 17, the following sections shall be inserted, namely:—

Insertion of new sections 17A and 17B.

“17A. The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

District Magistrate to implement the provisions.

17B. The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.”.

Inspection and monitoring.

21. In section 18 of the principal Act, in sub-section (2),—

Amendment of section 18.

(i) clause (a) shall be relettered as clause (b) thereof and before clause (b), as so relettered, the following clause shall be inserted, namely:—

(a) the conditions and the safety measures under clause (b) of sub-section (2) and other activities under clause (b) to *Explanation* of sub-section (2) of section 3;

(ii) in clause (b), as so relettered, for the words “Child Labour Technical Advisory Committee”, the words “Technical Advisory Committee” shall be substituted.

(iii) clauses (b), (c) and (d) shall be relettered as clauses (c), (d) and (e) thereof and in clause (c) as so relettered, for the word “child”, the word “adolescent” shall be substituted;

(iv) after clause (e), as so relettered, the following clauses shall be inserted, namely:—

(f) the manner of payment of amount to the child or adolescent under sub-section (4) of section 14B;

(g) the manner of composition of the offence and payment of amount to the appropriate Government under sub-section (1) of section 14D;

(h) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A.”.

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6 THE GAZETTE OF INDIA EXTRAORDINARY [PART II—SEC. 1]

Substitution  
of new  
Schedule for  
the Schedule.

22. In the principal Act, for the Schedule, the following Schedule shall be substituted,  
namely:—

THE SCHEDULE

(See section 3A)

- (1) Mines.
- (2) Inflammable substances or explosives.
- (3) Hazardous process.

*Explanation.*—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’

63 of 1948.

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*

MANOJ KUMAR  
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by MANOJ  
KUMAR  
Date: 2016.07.30  
23:11:00 +05'30'

# ANNEXURE IV

## **THE CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016**

### **THE SCHEDULE**

**(See Section 3A)**

1. Mines.
2. Inflammable substances or explosives.
3. Hazardous process.

Explanation.—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.

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