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A Background to the Convention on the Rights of the Child (CRC):

The UN Convention on the Rights of the Child. was unanimously adopted by the UN General Assembly on 20th November, 1989. Its 54 articles encompass not just civil and political rights but also social and economic rights and is regarded as the single most comprehensive instrument of human rights law.

On ratification, a country becomes a 'State Party to the Convention', obliged to review its national law to ensure full compliance with the Articles of the Convention. State Parties must submit a national report two years after ratification and thereafter every five years, whereby compliance is monitored by the Committee on the Rights of the Child. In addition to the National Report, views of each governments' progress are sought from a wide range of non-governmental organisations.

The key provisions covered by the Convention can be summarised into four categories:

- Firstly survival rights, from the child's right to life through the most basic needs, including food and shelter and access to health care.
- Secondly development rights, or all those things that child's require an order to reach their fullest potential, from education and play to freedom of thought conscience mad religion.
- Thirdly protection rights, requiring that children be safeguarded against all forms of abuse, neglect and exploitation.
- Finally participation rights, including the right to free expression, which allow children to take ma active role in their communities and nations.

Child Labour prohibition and protection provisions, on which this paper focuses, are stated under Article 32, and indirectly addressed though preventative measures such as compulsory primary education outlined in Article 28

(.Article 32 (1) States parties recognise the right of the child to be protected economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development 2) Slates Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this m4, and having regard to the relevant provisions of other international instruments, States Parties shall in particular (a) Provide for a minimum **age** or minimum ages for admission to employment (b) Provide for appropriate regulation of the hours and conditions of employment (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 28(1) States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on equal opportunity, they shall, particular: (a) Make primary education compulsory and available free for all...)

Child Labour in India

India ratified the CRC on 10 December 1992. However, its first national report due two years after ratification, was delayed and only came out in February 1997. This report examines the status of child labour in India and is a response to India's first report entitled the 'Country Report on the Convention on the Rights of the child'.

The estimated number of child labourers in India depends on the varying definitions used to describe what constitutes child labour. It is stated in section 9.22 of the India Country Report that;

'According to the 43rd round of the National Sample Survey (1987), the number of working children was estimated to be 17 million. The present figure is estimated to be around 20 million.'

However, this is without including employment in the unorganised sector of the economy such as domestic workers, agricultural workers and so on. Though estimations vary considerably depending on available data and methodologies used; based on the number of non-school going children and families living in destitution, CACL estimates that there are between 70 to 80 million child labourers in India.

(13.06 million (The 1981 Census); 17.36 million (The Planning Commission, 1983); 44 million (The Operations Research Group, Dared., 1983); 20 million (Labour Minister August 1994, when he announced a plan to 'liberate' 20 million working children in hazardous employment); 111 million (The Balal Data Bank, Manila based on the premise that if half of India's over 800 million population lives in poverty, the number of working children in India is likely to be over 100 million); and 77 million (Commission on Labour Standards and International trade, Government of India, 1995, based on the families living below the poverty line).

These children work in occupations ranging from construction work, working in abattoirs, working as sex workers, and manufacturing explosives to home-based industries such as gem polishing, paper bag making and grain cleaning.

Child labourers exist throughout India in both rural and urban areas, working on the streets, in factories, in the home, in fields in hotels, and in shops.

Despite wide discrepancies between estimations on the number of child labourers existing in India, it is unanimously accepted that the exploitation of child labour should be abolished. However, when the Indian government ratified the Convention on the Rights of the Child, it made a declaration about article 32, in which it expressed its interpretation and concluded that the Government of India undertakes to take measures to progressively implement the provisions of Article 32.

(The declaration on Article 32 states, while fully subscribing to the objectives and purposes of the Convention; realising that certain rights of the child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the development countries, subject to the extent of available resources and within the framework of international co-operation, recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons the children of different ages do work in India; having prescribed minimum ages at employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India; the Government of India undertakes to take measures to progressively implement the provisions in Article 32, in particular paragraph 2 (a), in accordance with its national legislation and relevant International instruments to which it is a State Party)

The arguments given, such as lack of resources and the practical problems associated with prescribing minimum ages for employment, are not substantive. As illustrated in section 3 (page 10), the 'poverty rationale' cannot be used as an excuse to divert from the lack of political will and specific practical problems such as 'prescribing minimum ages' need not hinder the immediate implementation of the Article.

Furthermore, this declaration is inconsistent and meaningless in the light of the CRC as a whole and the acceptance of the other Articles which are interdependent and, when fulfilled, automatically put an end to child labour: Examples of the interdependency between Articles and prohibition of child labour are Article 28, the right to education, Article 24, the right to health, and Article 31, the right to leisure.

Article 28 on the right to education is fundamental because it is the basis on which to form a comprehensive mechanism to eliminate child labour in India. It can only be realised through a commitment to strengthening existing state legislation and enforcement, as well as creating Central Government legislation. The key component of Central Government legislation would be to make elementary education (0-14 years) a fundamental right for all citizens and to ensure that the state is responsible for its implementation.

At present the lack of commitment from the Indian government can be seen in the gap between the need for education resources and the available budget.

(In 1996 the budget made available for education was Rs. 7,716.9 crores while the required resources were estimated at Rs. 10,463.5 crores (Primary Education In India: A World Bank Report, 1997).

This is exacerbated by the poor quality of education"resulting in 70-80 million children being out of the school system, potential child labourers.

The report is based on the experience and research of a network called Campaign Against Child Labour (CACL), consisting of 700 member organisations active in over 12 states across India. Its membership includes children's organisations, women's groups, trade unions and academic institutions. Refer to Annex 1. on CACL. It has been compiled by the Campaign's Secretariat with the support of Lalitha R. Charles.

The report is divided into four sections. The first section is an analysis of the 1986 Child Labour (Prohibition and Regulation) Act, and highlights the fundamental gaps in the legislation that need to be immediately addressed. The second section explores the National Child Labour Programme implemented in 1987 and the failure of specific projects that were established in 1994, to rehabilitate children, working in hazardous occupations. The third section examines the Supreme Court Judgement of 1996 and the consequences this has had on policy and action. The last section is a summary analysis of recent cases of child labour where the rights of the child have been seriously violated.

1 THE NEED FOR IMMEDIATE LEGISLATIVE CHANGE: The Child Labour (Prohibition And Regulation) Act, 1986

It is stated in section 9.1 Z4 (para. 73) of the India Country Report, that;

'The Child Labour (Prohibition and Regulation) Act, 1986, prohibits [children's] employment in jobs hazardous to their lives and health....The working conditions of the employment of children are regulated in all occupations and processes where their employment is not prohibited. The Act also ensures that they have adequate hours of rest and holidays.'

This is an accurate summary of the Act, but the report gives the impression that this law is being successfully enforced and does not allude to the inadequacies inherent in the law and the problems of its implementation. For example between 1986 and mid 1993 throughout India, there was only 3,488 prosecutions under the Act with only 1,426 convictions and none of those convicted have served a jail sentence for their crimes. This section seeks to highlight the limitations of the 1986 Act, and make suggestions on how the law can be amended to fulfill the requirements of the Convention on the Rights of the Child.

- The aim of the Act is to "prohibit the engagement of children in certain [forms of hazardous employment] and to regulate the conditions of work of children in certain other forms of non-hazardous] employment[s]". This arbitrary distinction between 'hazardous' and 'non-hazardous' employment needs to be eradicated for two reasons:

Firstly the selection of occupations and processes deemed hazardous is not comprehensive. For example, it does not include glass manufacturing, sari-weaving, lock making, rag picking, sewer cleaning and gem polishing which can result in one or a combination of the following; tuberculosis, eye defects, tetanus, infectious diseases, bronchitis etc.

Secondly, by defining 'hazardous' on the basis of direct physical harm, the Act neglects the long-term and indirect physical consequences of 'non-hazardous' child labour, and the psychological trauma inflicted on children which can be equally detrimental to the well being of a child. In other words, all child labour situations *in* which children are denied their rights to development~ education, medical care, recreation and leisure, are a violation of the rights of the child and should be prohibited. This requires the clarification of the word 'hazardous' to be used in the context of what is hazardous to the child as opposed to its use in the definition of labour, industries and processes.

- The definition of the 'establishment' where children work, in such a narrow context restricts action to 15% of the child labour force in the organised sector. (Establishment includes a shop, commercial establishment, workshop, farm, residential hotel restaurant, eating house, theatre or other place of public amusement or entertainment') The majority of child labourers suffering exploitation and who are being denied their fundamental rights, are left unprotected. Regulatory provisions in the Act are not made for children working in the agricultural sector and some of those working in the unorganised sector.

Furthermore the definition precludes child labour employed in homes. In this context, there is a need to redefine categories of child labour and to incorporate agriculture work and unorganised sector work such as household labour and self employed children.

The 'regulatory' provisions should only be applied to children over 14 years (15-18 year olds'. This age group should also have its own section within the Act; with special protection measures against exploitation and abuse, and incorporating all the rights granted to adult workers..

The 1986 Act, by overriding other labour legislation, in certain instances ironically contributes to further vulnerability of the child labourer. For example, by defining a child as a person who has not completed 14 years of age, the Act has actually lowered the age for a child's entry into some prohibited employment such as motor transport, shipping and factories. It also does not include vital clauses such as the prohibition of night employment of persons below 17 years of age as stated in Section 3 (2) of the Employment of Children Act, 1938, and the requirement for employers to send a notice to the labour inspector before any of the 'prohibited' processes are started in the workshop as stated in Section 3 (B). The Factories Act, 1948 left the onus of proving the age of employees to the 'occupier', but this is not the case in the 1986 Act." (Occupier' means the person who has ultimate control over the affairs of the establishment or workshop) Refer' to Annex 2 there is an urgent need to incorporate the positive clauses of previous legislation into the 1986 Act

- Measures that need to be incorporated into the 1986 Act to improve its enforcement, are;
 1. the inclusion and clear definition of the role of decentralised government institutions in enforcing the Act;
 2. inspection teams, to impose on-the-spot fines and initiate other appropriate penalties;
 3. the setting up of a joint task force at the District level consisting of eminent citizens, social workers, and officials of the Labour Department to monitor the implementation of the Act;
 4. empowerment and access to records for inspection to be given to NCGO's and Trade Unions and reports made by them on the prevalence of child labour, to legally oblige the factory inspector to initiate prosecution process;

5. the incorporation of enforcement mechanisms such as seizure of plants, machinery and cancellation of licenses;
6. and the legal obligation of an occupier previously convicted of employing child labourers, to prove within a set period of time that no children are being employed;
7. extending the coverage of the Act to include every occupation in which children are employed, irrespective of the existence of an **establishment**

2. FAILURES OF PROGRAMME IMPLEMENTATION: The National Child Labour Project

it is stated in section 9. 26 (pg. 74) of the India Country Report, that;

'The National Policy on Child Labour was formulated in 1987 which, apart from requiring enforcement of legal provisions to protect the interests of children, envisage, focusing of general development programmes for the benefit of build labour and project-based plans of action in areas of high concentration of child labour. Under the project action plan, of the policy, National Child Labour Projects (NCLP) have been set up in different areas to rehabilitate child labour. A major activity undertaken under the NCLP is the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition etc. to children withdrawn from employment.'

The Report fails to mention the details of the scheme and to address the problems of its implementation. The present phase of NCLP was launched in 1994, to rehabilitate over a five year period 20 Lac (2 million) of children working in hazardous occupations in 132 districts throughout India. A budget of Ri. 850 crores ('Equivalent US\$ 349 million (@ of Ba. 40.00 to the US\$) was allocated to the Programme to implement special schools which would incorporate non formal education, and provide vocational training, stipends, health checks and nutritional benefits i.e. the 'one meal a day scheme'.

There are a number of reasons why this Programme through its prolonged delay and difficulties in implementation, has been failure.

- From experiences drawn from the CACL network it has been revealed that no special schools in the state of Karnataka exist from the anticipated forty schools per district with potential to reach out to 2000 children). As a consequence, there is evidence of wasted and misused resources such as the redundant role of the district-based Project Director, in areas like Raniyanagaram. Furthermore, in Salem district, Tamil Nadu, it has been recognised that the allocation of Ri. 2.50 (US 6 cents) per- day per child for food is extremely inadequate to nourish a child.
- Inadequate allocation of funds has resulted in poor implementation. As yet projects have been set up in only 76 of the 132 districts, and covering a mere 1.5 Lac children and many of these schools have now closed down due to delay in financial disbursements. The implementation of new projects to rehabilitate the remaining 18.5 Lac children working in hazardous occupations are uncertain due to the unavailability of funds within the Labour Ministry. Though the Labour Ministry received Ri. 33 crore in 95-96, Rs. 40 crore in 96-97 and a grant of Rs. 18 crore in 97-98; the Labour Ministry had only Ri. 15 crore available ('The untimely announcement of the Programme coincided with the penultimate year of the Labour Ministries' eighth year plan (Times of India, 18th January, 1998) and even after the Ministry mobilised another Ri. 43 crore, the Programme **was** inadequately funded. A genuine commitment reflected, in fulfilling financial obligations is a prerequisite for the successful establishment of programmes.
- There has also been some contention between the Ministry of Labour and the Ministry of Human Resource Development over the setting up of the special schools. The Ministry of Human Resource Development wants the 'Labour Ministry to identify the children who need rehabilitation but to leave the running of the special schools to them. There is a need for urgent inter-departmental co-ordination and the strengthening of infrastructure to successfully implement the rehabilitation programmes.
- Crucial recommendations on the nature of the NCLP have been made. For example, the

programmes should not develop a two tier system of schools, with separate set of schools which specifically cater to working children and which reinforce child labour patterns rather than eradicating child labour. However, there is a need to give special consideration and flexibility to children who work so that they can gradually be integrated into the formal school system. Decentralisation is required whereby local government bodies ensure the quality and relevance of schooling for children. This may include providing accommodation to give continuity of education for children whose parents migrate for seasonal work elsewhere or vocational training providing relevant skills for children in a particular locality.

3. NEW MOMENTUM RAISES FURTHER QUESTIONS: Supreme Court Judgement, December, 1996

It is stated in section 9.33 (pb. 75) of the India Country Report, that;

'In another recent decision dated 10. 12.96...M.C. Mains Vs. State of Tamil Nadu and other [writ petition No 465 of 1986], the Supreme Court has inter alia reiterated its earlier decision for compulsory education up to the age of 14 years and also directed that the concerned employer who employs a child in contravention of the provisions of Child Labour (Prohibition and Regulation) Act~ 1986 shall pay as compensation a sum of RB. 20,000 per child which would be deposited in a Fund known as "Child Labour Rehabilitation-cum-Welfare Fund". Similarly, the Supreme Court has also directed that in those cases where it would not be possible to provide a job to an adult family member in lieu of the child, the appropriate Government would, as its contribution, deposit in the afore said Fund a sum of Rs.5,000 for each child employed in a factory or mine or any other hazardous employment. The Fund so generated shall from a corpus whose income shall be used only for the concerned child.'

The report briefly outlines its response to the Supreme Court Judgement in section 9.34, such as the meeting of the National Authority on 'Elimination of Child Labour'~ held on the 31st of December 1996, 'wherein the various implications of the Supreme Court order were discussed and a line of action proposed', and the 'Conference of the State Labour Ministers, Labour Secretaries and Labour Commissioners' held on 22nd of January 1997, 'to formulate a concrete action plan to give effect to the Supreme Court directions'. However, it fails to detail what these 'action plans' entail and does not mention the measures already clearly stipulated in the judgement, as described in more detail below:

- The Judgement directs the concerned States to carry out a survey within six months (by June 10th 1997), to assess the type of child labour that exists within each state.
- It states the most hazardous employment may rank first in priority, to be followed by comparatively less hazardous and so on. It also highlights the industries already marked for priority by the NCLP. These are: the match Industry in Sivakasi,~ Tamil Nadu; the diamond polishing industry in Surat, Gujarat; the precious stone polishing industry in Jaipur, Rajasthan; the glass industry in Moradabad, Uttar Pradesh the hand-made carpet industry in Moradabad, Uttar Pradesh the hand-made carpet industry in Mirzapur-Badohli, Uttar Pradesh; the lock-making industry in Aligarh, Uttar Pradesh; the slate industry in Markapur, Andhra Pradesh and Mandsaur, Madhya Pradesh.
- It states that in those cases where alternative employment would not be made available, **the** parent of the child would be paid the monthly interest of an income R. 25,000, but this would cease to be given if the child was not sent to school by the parent.
- It points out that Article 45 of the Constitution mandates compulsory education for all children until they complete the age of 14 years and it is also required to be free. It states 'it would be the duty of the inspectors to see that this call of the Constitution is carried out'.
- It is also the duty of the inspector in 'non hazardous' employment of child labour, to ensure the working hours of the child are not more than six hours a day and the ~child receives education for at least two hours each day. The cost of education is borne by the employer.

- It requires the penal provisions of the 1986 Act to be used where employment of child labour, prohibited by the Act, is found.
- It orders the Secretary to the Ministry of Labour to appraise the Court in one year (10th December 1997) on the compliance of the directions.

The Supreme Court judgement has given fresh impetus to eradicating child labour and is extremely action orientated⁴ as it is required to be fulfilled in a stated period of time. It has clearly laid the responsibility of rehabilitation onto the employers, Central and state governments and the parents of the children. However, the Supreme Court judgement also has some drawbacks, outlined below.

- For example, after acknowledging the failures of the 1986 Child Labour Act, which since its inception has not jailed a single offender, the Supreme Court directs for the Acts implementation rather than for an immediate review of the Act and incorporating the recommendations mentioned in section 1 of this paper.
- The 'state surveys' ordered to be carried out by June 10th 1997, are flawed as they are based on the same inadequate constructs as the 1986 Child Labour Act. For example the State Labour Commissioner of Maharashtra admitted that the survey conducted did not examine children working in the rural areas, and those working in 'non-hazardous' occupations, accounting for more than 9m'e of child labourers. (Quoted In the Times of India, Mumbai 9 July 1997.) This has resulted in the Maharashtra survey placing the number of working children at only 15,000. This figure is significantly lower than existing government data such as the 1991 Census which calculates over 1 million working children in Maharashtra. (The 1991 Census calculated 1,068,418 working children in Maharashtra.) The flawed methodology used has led to these government data inconsistency in many states
- the redundant nature of the surveys. A comprehensive survey is required through India that will include all forms of Child Labour and lead to appropriate policies and programmes.
- Without forcefully promoting the amendments to the 1986 Child Labour Act, the Supreme Court Judgement sustains the argument which cites poverty as a cause of child labour allowing for progressive of its policies. This is in contrast to the **Judgements** clear affirmation that;
'India is the significant exception to the global trend toward removal of children from the labour force ~ the establishment of compulsory, universal primary school education, as many countries of Africa like Zambia ghana, Ivory Coast, Libya, Zimbabwe, with incomes lower than India, have done better in these matters. This shows what has caused the problem of child labour to persist here is really not dearth of resources, but the lack of real zeal.'
 - Furthermore, it did not order the government to enforce the Constitutional right of free and compulsory education for all children until they complete the age of 14 years.
 - Also by creating a corpus fund for children working in only hazardous employment, the judgement has made the hazardous industry attractive to parents. This is to the detriment of alternative and more comprehensive suggestions, such as the setting up of a universal social security system which would prevent parents from sending children to work.
 - Concerns have also been raised about the ability of government inspectors to fulfill their new and increasingly demanding roles when they have shown an inability to implement the fundamentals of the 1986 Child Labour Act. For example there is a lack of inspectors to carry out the work required, as in Maharashtra State which has approximately 200 inspectors.

4. SERIOUS VIOLATIONS SINCE RATIFICATION: Cases Of Child Labour

Since the ratification of the 'Convention on the Rights of the Child' in December 1992, child labour remains prevalent. The following cases that CACL has been involved with demonstrate some of the key issues facing those seeking to eradicate all forms of child labour in India. Refer to Table I, summary of all the cases. This table only represents a small proportion of violation cases and is indicative of the extreme nature and extent of child rights violation.

The Government is non-cooperative in known cases of child labour. This is exemplified in the case of child workers in road construction in Ahmedabad, Gujarat. The state government was neglecting cases of child labour in its road construction and despite frequent letters urging them to put an immediate stop to it, the government refused to be cooperative, blatantly violating child protection legislation.

The Government fails to fulfill its responsibilities in upholding the fundamental rights outlined in the Constitution, national legislation on child labour, and international commitments.

The Government, by employing contractors who use child labour, is breaking the laws that it claims to support, and working in direct contradiction with the policies that it implements. This is exemplified in the case of Meghdas, a twelve year old child killed under collapsed scaffolding on a construction site for the National Games. The Government must be held responsible for ensuring that its contractors, in this case SVEC Construction Ltd., do not employ children.

Extreme violation of child rights is prevalent in occupations defined as 'non hazardous' and those which are not even covered by national legislation. For example, there are no provisions in the law to protect household workers. This group of child labourers are totally vulnerable as shown in the case of Jyothi. She was a thirteen year old girl working as a domestic servant, who committed suicide after the exploitation and alleged abuse by her employers. Suspicions were raised when the employment, both government officials, (a Health Department Superintendent and his wife, a Stenographer at the office of the District Superintendent of Police), quickly carried out a post-mortem and were about to cremate the child's body. After severe protest, compensation was paid and a second post-mortem was carried out as a domestic servant who committed suicide after the exploitation and alleged abuse by her employers. Suspicions were raised when the employers, both government officials, (a Health Department Superintendent and his wife, a Stenographer at the office of the District Superintendent of Police), quickly carried out a post-mortem and were about to cremate the child's body. After severe protest, compensation was paid and a second post-mortem was carried out.

Summary

Through examining India's legislation, programmes and violation pertaining to child labour, the paper has identified a set of recommendations that need to be implemented, above all the total and unconditional ratification of the Convention on the Rights of the Child. The most urgent of these are highlighted below:

Education

1. To pass the 'Constitution (Eighty-Third Amendment) Bill, 1997,' which makes primary education a fundamental right by providing free and compulsory education up to the age of 14 years, in keeping with Art. 45 (Indian Constitution). It has to ensure coverage of all children.
2. Education to serve as a preventative measure to eradicate child labour especially in areas where it has been previously absent. Providing appropriate support systems such as creches, health and welfare services and high quality and relevant education to reduce the drop out rate of school children.
3. Education strategies to serve as a bridge towards rehabilitation of child labourers. Special care of children being integrated into school systems may take the form of temporary rehabilitation centres to familiarise children with the curriculum, residential and non-residential education centres to teach technical skills relevant to the child and

taking education to where children work, to increase interest in education and to phase out children from the work environment.

The Child Labour (Prohibition and Regulation) Act. 1986

1. All child labour below the age of 14 years prohibited from employment.
2. Regulatory provisions only applied to children over 14 years (15-18 year olds).
3. Redefine legal categories of child labour to incorporate agricultural work and unorganised sector work such as household labour and eradicating the arbitrary distinction between 'hazardous' and 'non-hazardous' employment.
4. Incorporate the positive clauses of previous legislation into the 1986 Act.
5. Utilise and strengthen measures to enforce the 1986 Act.

The National Child Labour Projects

1. A genuine commitment is a prerequisite for the successful establishment of programmes.
2. Inter-departmental co-ordination and the strengthening of infrastructure to successfully implement the rehabilitation programmes.
3. Flexibility in the design and implementation of the programmes to take into consideration local needs and factors.
4. Decentralisation, whereby local governing bodies ensure the quality and relevance of schooling for working children.

Supreme Court Judgement. December 1986

1. The immediate enforcement of the Judgement, including Article 45 of the Constitution which mandates free and compulsory education for all children, until they complete the age of 14 years.
2. A comprehensive survey taken throughout India that will include all forms of child labour.

Violations

1. The Government to co-operate fully in known cases of child labour and to fulfill its responsibilities in upholding the rights of the child and prevent and ensure punishment of violations.
2. The Government to cease employing contractors who use child labour.

ANNEX 2.

SUMMARY OF LEGISLATION PERTAINING TO CHILD LABOUR

The Children (Pledging of Labour) Act. 1993

Prohibits making an agreement to pledge the labour of a child (15 years and under) for employment. However, this does not include an agreement made without detriment to the child and for reasonable wages to be paid for the child's services. Penalties range from between 50 to 200 rupees.

The Employment of Children Act. 1938

Prohibits employment of children in certain hazardous occupations below 15 years, and prohibits night employment of those under 17 years of age. Prohibited occupations and processes over workshops and includes family aided occupation and processes using

hired labour. The Act does not apply to apprentices receiving vocational training, to processes carried on at home, or to any school established by or receiving assistance from a state government. Prosecution only with sanction of inspector and punishment of imprisonment up to 1 month and/or a fine of up to 500 rupees.

The Factories Act, 1948.

Prohibits employment of a child below 14 years in a factory. Regulates employment and restricts night employment of children between 15 and 18 years. A child between 14 and 15 years cannot work for more than 4-1/2 hours. Punishment for violation of the act is up to three months and/or a fine of 2,000 rupees.

Minimum Wages Act, 1948

Provides for fixation of time and wage rate for piece of work for different occupations and localities. The number of hours which shall constitute a 'normal' working day for a child of under 14 years of age is 4-1/2 hours. A child can be paid 80% of the adult's wage reaffirming the position of the child as a provider of cheap labour. Imposes a penalty on the employer of up to six months imprisonment and/or a fine of up to 500 rupees.

The Plantation Labour Act, 1951

The original act prohibited employment of children below 12 years on a plantation but this was amended in 1986 whereby a child is permitted to work if certified as a fit person with a working week of no more than 40 hours. Imposes a penalty on the employer of up to three months imprisonment and/or a fine of up to 500 rupees for obstructing an inspector.

The Motor Transport Workers Act, 1961

No child under 14 years is allowed to be employed in any capacity in motor transport undertaking. For obstructing an inspector the employer is punishable with imprisonment of up to three months and/or a fine of up to 500 rupees.

The Schools and Establishments Act, 1961

The state prohibits the employment of children in hotels, restaurants, commercial establishments and places of amusement, and those under 18 years prohibited from night work.

The Apprentices Act, 1961

Provides for the regulation and control of the training of apprentices in particular trades. The minimum age of which is 14 years and the apprentice should satisfy standards for education and fitness. Punishment for violation is imprisonment of up to six months and/or a fine.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 Prohibits the employment of children under 14 years of age in the beedi or cigar industry, and women and those under 18 years are prohibited from working at night. For violation of the act there is a fine of up to 250 rupees, and for a second violation imprisonment of no less than one month and no longer than six months and/or a fine of 100 to 500 rupees.

The Bonded Labour System (Abolition) Act, 1976

Bonded labour is abolished and liability to pay bonded debts is cancelled. Property of bonded labour to be freed from mortgage and freed bonded labour not to be evicted from homestead. Creditor not to accept payment against extinguished debt. For various violations punishments are up to 2,000 rupees fine and up to three years imprisonment.

The Mines Amendment Act, 1983.

No person below the age of 18 years shall be employed in a mine except apprentices above 16 years of age and under proper supervision. For various violations punishments

are up to three months imprisonment and/or up to 1,000 rupees fine.

The Merchant Shipping (Amendment) Act. 1984 No person under 15 years of age shall be engaged at sea to work in any capacity except in a training ship, or a ship where all members are one family or in a home trade ship with less than 200 tons gross or where the child is employed at a nominal wage and will be in the charge of his father or other male relative. Punishment for violation is imprisonment of up to five months and a fine of 50 rupees.

The Child Labour (Prohibition and Regulation) Act. 1986

No child under 14 years shall be employed in listed occupations and processes and regulations apply in other listed occupations and processes, to conditions of work for children. Punishment for violation is imprisonment of up to one month and/or a fine of 10,000 rupees. Refer to section one.

(The report also includes a table of case studies - contact the NGO group for copies)

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