

Dear Chief Secretary,

National Commission for Protection of Child Rights (NCPCR) is concerned about the existence of children, who are out of school and engaged in work as child labour. It is time that all of us join together to end child labour in all its forms in our country today.

In this connection, the NCPCR feels that we must take advantage of "The World Day Against Child Labour", which is observed on June 12 every year. This year, the theme is "Education is the right response to child labour".

I am sending herewith a set of Guidelines on Abolition of Child Labour.

I shall be grateful if you also chalk out a plan for the celebration of the World Day on June 12, 2008 at the State level and involve the entire State Government apparatus to give publicity to the number of cases booked and number of child labour rescued and sent to schools.

With regards,

Yours sincerely,

Sd/-
(Shantha Sinha)

Chief Secretaries
of all States/Union Territories (by name).

Cc:

Concerned officers of Government of India

Collectors of all Districts of India.

Encl: Guidelines on Abolition of Child Labour.

National Commission for Protection of Child Rights

Government of India, New Delhi

(April 30, 2008)

GUIDELINES ON ABOLITION OF CHILD LABOUR

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PREPARATION FOR WORLD DAY AGAINST CHILD LABOUR-JUNE 12, 2008

The issue of existence of child labor even after sixty years of independence is unacceptable and must be a matter of concern for all citizens in the country. Often child labor is justified by arguing that children's parents need their income or that it is impractical to remove child labor at one go. This has resulted in perpetuation of child labor and compromising on children's rights.

The perspective of the National Commission for Protection of Child Rights is that it is possible to abolish child labor if a wholehearted effort is made in this direction, both by the government and also the citizens in our country. This understanding is based on the innumerable efforts and success stories of the initiatives of the government as well as the NGOs in various states and regions in India. It is also based on the experiences of parents of erstwhile child labor who are making enormous sacrifices to see that the education of their children is not disrupted until they finished at least class ten. It has been recorded that there has been a profound change in even those parents who initially resisted the idea of their children being withdrawn from work. They owned up with pride the transformation of their child from a child labor to a student. In this sense it was just a matter of time before they gained confidence to support their child's education and yearn for it. This is to say that if we repose faith in the poor, they are capable of partnering in the endeavor to abolish child labor.

Further in NCPCR's perspective it is impractical for children to be suffering lack of childhood as child laborers and denied their right to education. There is a need to protect them from exploitation and give them all their entitlements as a matter of right. This must be done with a sense of urgency.

The following guidelines are issued to all the States to make sure that there is a total abolition of child labor and every child attends full time formal school.

Enforcement of law

- The Child Labour (Prohibition and Regulation Act) 1986 prohibits child labor in 15 occupations and 57 processes (The Schedule-Part A and Part B). The labor department must book cases against the employers and issue strict warning to all the potential employers. This must be taken up as a drive, area-wise through mobile labor courts and a plan of action for pursuing the cases that have been booked must be in place.
- The Juvenile Justice Act 2006, a welfare legislation, has been enacted to provide for care, protection development and rehabilitation of neglected, delinquent children and includes

within its purview, child laborers. Section 2 (d) (ia) includes 'working children' within the definition of a 'child in need of care and protection'. The JJ Act, under section 2 (k) defines a 'Child' as "...a person who has not completed eighteenth years of age." Consequently this Act is much wider than the Child Labor Act, as it affords protection, care and cover to all children upto the age of 18 years as against the Child Labour Act which prohibits employment of children only upto 14 years of age. In other words, the JJ Act covers child labor which is not prohibited under the Child Labor Act.

- The Bonded Labor System Abolition Act, 1976 must be used as an instrument to book cases against employers of children. It is noted that most children work against advances taken by their families. Such children are also working mostly as migrant labor. The vigilance committees under the Act have to be activated and the revenue and labor department must enforce the law strictly. It must be recognized that there is no age restriction to book cases under the Act and the burden of proof that there is no advance involved is that of the concerned employer.
- In addition, the Contract Labor (Regulation and Abolition) Act, 1970 can be used to prosecute the principal employer in cases where the engagement of child labor has been done through a contractor. This practice is common and used by many companies to absolve themselves of any liability. This Act draws on the principle of 'vicarious liability' and can be used effectively to prevent companies and contractors from engaging child labor.

All the above Acts together would cover most children who are in the labor force including agriculture and allied activities and must be used individually and / or collectively, by the government and other stakeholders to take firm action against the employers concerned. It must be understood that strict enforcement of the law should in itself act as a deterrent to the employers to engage child labor. Further children are being engaged to work because they are a source of cheap labor and can be forced to work for long hours. It is no favor done to the child but is a factor of cutting the costs for the employer.

At the same time all public sector institutions, government undertakings, government funded institutions and government offices must declare a code of conduct for all its employees not to engage children as domestic workers or encourage child labor in any form in their work places.

Provision of Education and Rehabilitation

The Sarva Siksha Abhiyan (SSA) and the education department must take up the responsibility for rehabilitating children through its residential bridge courses (RBC) and mainstream them into formal schools. In fact they have to be assigned to the schools even as students in the RBC.

National Child Labour Project (NCLP) must be utilized for the initial transitional support, for counseling and giving comfort to the child rescued from labour force, especially in the case of those children under trauma or children working as migrant labour.

The Child Welfare Committee must be involved in ensuring that the rescue and rehabilitation operations are child friendly and track every child till they are rehabilitated. They should also ensure that the health and other care are properly delivered to the child.

The program for rehabilitation of children must be by providing all facilities for the child to be integrated into the school system. Given the SSA and NCLP it is eminently possible to address this issue. There are also the Kasturba Gandhi Balika Vidyalaya (KGBV), social welfare hostels, ashram schools which are also to be utilized to the fullest extent possible. All mainstream education systems and supportive structures hostels should be accessed to mainstream child labor into education system.

Campaign and Public Awareness

There is also a need to galvanize the energy of one and all in creating a mass movement against child labor and for children's rights to education. Action plans to conduct publicity drives, enlisting support of all government officials, NGOs, teachers and trade unions, political parties, corporate sector , college students and all others in systematic fashion is necessary. Media involvement is a must!

Coordinated Action at all Levels

The successful attainment of a child labor free society would largely depend on the coordinated action between all the departments concerned. It is absolutely essential that the relevant Government departments (i.e. Labor, Education, Women and Child, Revenue, health, police, etc) work together to implement the existing legislation(s) and policy towards eradicating child labor, promoting rescue and rehabilitation of such children, and facilitating formal education which is a fundamental right guaranteed to all under the Constitution of India. It is cannot be emphasized enough that unless there is a coordinated and sincere effort by and between all the stakeholders, child labor will continue to persist and fester.

The District Collectors are directed to draw up specific action plans to take up all the above tasks. This year, the International Labor Organization has declared the theme of 'Child Labor and Education' on the occasion of the World Day against Child Labor Day on June 12th 2008. As a preparation, it would be appropriate to take all actions to culminate in celebrations at the gram panchayats the successes of the initiatives on abolition of child labor and provision of education for released child laborers.

The Chief Secretaries may also plan for the celebration of the World Day against Child Labor on June 12, 2008 at the State level, and involve the entire government apparatus to give publicity to the number of cases booked and numbers of child labour rescued and sent to schools.

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