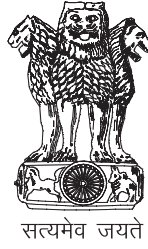


Abolition of Child Labour  
and Making Education a  
Reality for Every Child  
as a Right

2008





# Abolition of Child Labour and Making Education a Reality for Every Child as a Right



National Commission for Protection  
of Child Rights (NCPCR)

2008

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## FOREWORD

This Report, **“Abolition of Child Labour and Making Education a Reality for Every Child as a Right”** is about taking sides for children and their right to education as against the employers and those market forces, explicit and indirect, that force children into the labour force. It is in support of the crying demand of poor parents for schools and stands by them to see them win their battle for school in favour of children both boys and girls, to be seen, heard and not shoved into dingy rooms and work places, their release from debt bondage and the total stopping of episodes of trafficking, increasing vulnerability and child abuse..

It is for children to be released from drudgery and ignominy, so that they can go to school and continue to do so until they complete 18 years, just as children of the middle and upper classes do. It is to ensure that this inhuman exploitation is ended and all children never again sell their labour and endure social exclusion. It is for democratization of schools just so that all classes of children enjoy equal educational entitlements across the country. It is a call for equity and social justice that can be attained only through the liberation of children which are indispensable for India’s democracy.

It holds that free and compulsory education and the total abolition of child labour are central to human development and fundamental for enhanced citizenship.

It is in this context that the Commission welcomes the **‘Right of Children to Free and Compulsory Education Act, 2009’**, as a harbinger of a new era for children which makes it obligatory for the state to provide education as a fundamental right of every child. Actualizing the provisions of the Act in its true spirit requires a ground swell of support at all levels ,from every neighborhood to the national call encouraging all children to join schools. There has to be a zero-tolerance of children being out of school and child labour. It is hoped that the present document paves the way for the policies and the law on child labour to be in sync with the Right to Education Act, 2009.

New Delhi  
January, 2010

**Shantha Sinha**  
Chairperson

# INTRODUCTION

## 1.1 The Role of National Child Labour Policy

Our national policy on abolishing child labour must resonate with the heroic accounts of young children who repeatedly risk their lives in their struggle to escape insults and humiliation in their work place, whether they are working in their own villages or have been sent away as migrant workers, whether they are in urban sweatshops and streets or in quarries and mines. It must recognise their voices against loss of childhood, suffering and exploitation, hunger, lack of education and the damage we cause them by not meeting their basic rights and thus giving them the dignity that is due to them. It must support the silent and lonely battle of each individual child which stands aborted for want of protagonists from any quarter to help them in their quest for freedom, justice and realisation of their fundamental rights.

## 1.2 Child Labour Policy – Fundamental Principles

To do so, the national policy must be founded on some fundamental truths – (i) that among other factors, child labour causes and perpetuates poverty; (ii) non-economic factors play a significant causal role in sustaining child labour; (iii) lack of educational attainment is the most important non-economic factor which continues to entrench child labour generationally within a vicious cycle of poverty, even in the face of increasing economic well-being; (iv) child work participation can systemically impede educational attainment for both out of school and in school children; (v) and poor families can and do send and support their children in schools.

## 1.3 Policy Imperative

As a nation we should be ashamed that 5,79,841 children in the age group of 0-4 years are currently engaged in household duties in our country (Census 2001)<sup>1</sup>. We should also be ashamed that these and many more children both in and out of school cannot realise their right to education<sup>2</sup>. We must recognise every such child who has never entered the portals of education, whether she is a school dropout, is enrolled in the school registers but is in fact engaged in work and not anywhere near the school, whether she is engaged in domestic chores and other forms of work, or is hidden and invisible, and goes unnoticed since she is out of school. Being out of school all such children are to be treated as child labour or potential child labour. We must find child labour in any form objectionable and must guarantee children's right to education and their continuance in school till they complete secondary school education.

## BASIS FOR LEGISLATIVE AND POLICY REFORM

The following sets out the context and basis for policy and legislative reform, which must address all child labour and link the elimination of child labour to compulsory schooling and educational attainment.

### 2.1 Status of Child Labour – Encompassing the full scope of hidden and excluded child labour

- 2.1.1 There is a need to examine the status of child labour in our country. As per Census 2001 there are 13 million child labourers in the age-group of 5-14 years i.e. children who are economically active.<sup>3</sup> The NSSO's 61<sup>st</sup> Round (2004-05) estimates child labour in India at 8.6 million.
- 2.1.2 There are some who have introduced the category of 'nowhere' children, i.e. who are neither going to school nor to work<sup>4</sup>. Thus while Census 2001 reports 85 million children not attending school of whom if we were to accept that the entire set of 12.7 million working children are not going to school, this leaves 75 million children who are 'nowhere'. The 'nowhere' children, dramatic as it may sound, are in reality children who are everywhere. These are girls and boys who are neither really 'missing' nor idle. In fact most children (girls or boys) who are not in school are immediately drawn into supplementing family labour either on a full time or part time basis, assisting in the family occupation, managing family assets, or simply engaged in a variety of activities which free adults to spend more time on income-generating activities. Irrespective of whether the child is idle, engaged in household chores or labouring as a family member, she is educationally deprived and contributes to the labour pool. Such children are excluded from the definition of child labour.
- 2.1.3 Another method of excluding all these children from the purview of policy and the law has been to categorise their activity as child work (harmless/good) and not as child labour (harmful/bad). The Ministry of Labour estimated 2 million child labourers engaged in hazardous occupations<sup>5</sup> and all the planning has been done to withdraw these children from the labour force first. Segregating work done by a child into exploitative 'labour' and non-exploitative 'work' suffers from basic flaws as there is no simple method by which some activities indulged in by a child could be classified as 'work' and some as 'labour' This task is rendered even more arbitrary by the fact that there is nothing to prevent the child transiting from one category to another.
- 2.1.4 Most perspectives on child labour have significantly left out the large numbers of children working in agriculture and allied activities either for an employer on a wage basis or having been trafficked to faraway, unfamiliar workplaces. It is estimated that there are about 9 million child labourers, of whom the majority are in rural areas. Two thirds of such child labourers are engaged in agriculture, accounting for 73 per cent of casual wage child labourers and 9 per cent of the regular workers.<sup>6</sup>
- 2.1.5 A large amount of work in which girls are engaged does not even figure as child labour. It is well established that girl children are largely engaged in running the household from a very early age, even before they are capable of wage-earning activities. Yet they very rarely enter into the calculation of

child labour. This has an adverse effect on rescuing them from the labour force and ensuring their attainment of education. In ignoring the servitude of girls to household work, their exploitation becomes even more invisible and hidden<sup>7</sup>.

- 2.1.6 Undoubtedly a large number of children in the child labour pool are from the scheduled caste and scheduled tribe communities.<sup>8</sup> They are also a large part of the labour pool in the growing informal sector.
- 2.1.7 By differentiating between child work and child labour; introducing the concept of ‘nowhere’ children; focusing on abolishing hazardous or ‘worst forms of child labour’ and tolerating ‘non-hazardous’ forms of child labour; disregarding the labour rendered by girls and even boys in similar predicaments, we narrow the definition of child labour and exclude large numbers of children who are deprived of education and form part of the labour pool, and who are at risk of abuse and exploitation. The compulsion to exclude children who are actually engaged in some forms of work arises out of the narrowed commitment and intention to abolish child labour based on defined categories which constitute child labour. Thus if a child is engaged in an activity that is not categorized as child labour, she can always be ignored.
- 2.1.8 A broad consensus that has emerged over the years is that the definition of child labour should be inclusive. It must consider all children in the workforce whether the work done is paid or unpaid, part of family labour or for an outside employer, whatever the working conditions imposed on the child. From a rights based perspective all forms of work are bad for children and there can be little scope for compromise on this issue.

## 2.2 Out of School Children and Child Labour

- 2.2.1 There is a consensus emerging that when a child is not attending school she would perforce be part of the labour pool. It is estimated that out of school children constitute nearly 18 per cent of the children and in absolute numbers of potential child labour the pool still remains very high at above 40 million.<sup>9</sup> Indeed according to the calculation based on the Selected Education Statistics provided by the Ministry of HRD, the number of children out of school during 1997-98 to 2004-05 is 6.55 crore<sup>10</sup>. All of them are to be considered as part of the labour force.
- 2.2.2 The Second National Labour Commission Report (2002) too establishes the link between child labour and education and states that, “All out of school children must be treated as child labourers or as those who have the potential to become child labourers... Thus, all work done by children, irrespective of where it is done, must be considered as child labour. Only then girls and children working within the family become a part of the strategy to eliminate child labour, and significant headway will be made towards achieving the goal of eliminating child labour”<sup>11</sup>.
- 2.2.3 In linking child labour to education, the tasks of eliminating child labour and of universalizing education become synonymous. One cannot be achieved without the other. The task of withdrawing a child from work therefore, becomes the same as inducting the child into school. The only form of school that does not explicitly support the concept of a child working is the formal day school. This automatically implies guaranteeing the right to education of all children in full time formal day school.

## CURRENT LEGAL AND POLICY INSTRUMENTS TO COMBAT CHILD LABOUR

**3.1 As per Article 24 of the Constitution, no child below the age of 14 years is to be employed in any factory, mine or any hazardous employment.** Further, Article 39 requires the State to direct its policy towards ensuring that the tender age of children is not abused and that they are not forced by economic necessity to enter avocations unsuited to their age or strength. Recently, with the insertion of Article 21A, the State has been entrusted with the task of providing free and compulsory education to all children in the age group of 6-14 years.

**3.2 In terms of legislative measures, the most significant effort to tackle child labour** has been the Child Labour (Prohibition and Regulation) Act 1986<sup>12</sup>. The Act, by and large, seeks to prohibit child labour in certain occupations and processes and regulate working conditions in other areas of work.<sup>13</sup> The law does not ban child labour if rendered for one's own family in those areas of occupations and processes that have been prohibited by the Act. Likewise, it has no purview over regulating the conditions of work if children are engaged to work by the family or in the household.

**3.3 It also provides for an expansion of the list of occupations and processes to be prohibited** on the advice of the Child Labour Technical Advisory Committee, and for the protection of working children not employed in notified occupations and processes. This takes the form of regulating the number of hours that a child can be made to work continuously and the number of days of continuous employment. Even here, children working for their own family are not to be regulated. Significantly, children working as part of family labour fall outside the scope of the Act<sup>14</sup>.

**3.4 The National Policy on Child Labour announced in 1987 emphasised the need** for strict enforcement measures in areas of high child labour concentration. In order to translate the above policy into action, the Government of India initiated the National Child Labour Project Scheme (NCLP Scheme) in 1988 to rehabilitate working children, starting with 12 child labour endemic districts in the country. Under the Scheme, working children are identified through child labour surveys, withdrawn from work and put into special remedial or bridge schools, so as to provide them with an enabling environment to join the mainstream education system. In these Special Schools, besides formal education, they are provided a stipend of Rs.100/- per month, nutrition, vocational training and regular health checkups. In addition, efforts are also made to target the families of these children so as to cover them under various developmental and income/employment generation programmes of the Government. The Scheme also envisages awareness generation campaigns against the evils of child labour and enforcement of child labour laws.



3.5 The Juvenile Justice (Care and Protection of Children) Act, 2000 in Section 26 provides that “Whoever ostensibly procures a juvenile or the child for the purpose of any hazardous employment, keeps him in bondage and withholds his earnings or uses such earnings for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.” Education has been made a fundamental right through the landmark judgement of the Apex Court in the case of Unnikrishnan J.P. vs. State of A. P. & Ors. 1993<sup>15</sup>.

# LIMITATIONS OF LEGISLATION AND CURRENT POLICY

## 4.1. Child Labour (Prohibition and Regulation) Act, 1986 - Limitations

- 4.1.1. There are a number of 'loopholes' which make the law ineffective. For instance, children working as part of family labour are exempt from the purview of the Act. Given the dispersed nature of work, all sorts of child labour is passed off as family labour. This provision is widely abused by employers<sup>16</sup>. Added to this there is an increasing informalisation of the labour market with more and more sectors using the sub-contract modality. Work is being given to workers at home and work is being shared by children and is unaccounted for.
- 4.1.2. The Act does not cover agriculture and allied activities which account for the highest incidence of child labour. It coincides with those children who are most excluded from the school system such as the scheduled caste and scheduled tribe population, children of minorities and girls. This is also true of the millions of children engaged in all other forms of work that are not listed as processes and occupations which are prohibited. All such children do not come under the purview of the Child Labour Act.
- 4.1.3. **Regulating child labour under the Act is an affront to the fundamental right to education. It is unconstitutional to allow children to work even under the regulatory provisions of the Act.**
- 4.1.4. The Child Labour (Prohibition and Regulation) Act 1986 does not cover children in the 15-18 years age group. They constitute roughly 11% (Census 2001) of our population and are in the labour force as illiterate or semi-literate unskilled workforce. They are totally marginalised, enjoying no fundamental rights, having no options but to join the ranks of disempowered and marginalised sections of our society.
- 4.1.5. The Act is silent on violation of children's rights and especially the right to education. It does not take into account compensating for the psychological damage done to a child due to the deprivation of her basic rights, loss of dignity and freedom and so on.
- 4.1.6. Based on the 'poverty argument' the Act limits the extent to which child labour can be legislated against<sup>17</sup>. If child labour is deemed as inevitable, any legislation which strictly prohibits it would automatically become unimplementable. And so the best one can do is to legislate against extreme forms of child labour and regulate child labour in other areas. This is precisely what the Child Labour (Prohibition and Regulation) Act, 1986 has done.
- 4.1.7. It is also argued that since it is not possible to abolish child labour in all its forms, let us select the ones which need immediate attention and gradually implement the programme for the rest. Thus in giving priority to children in identified occupations and processes there is an expression of urgency which results in threshold for action. The message is that, 'we must be practical'. This makes the law half-hearted and the fundamental right to education and its goal of universal schooling is critically compromised.

4.1.8. Practice at the ground level has shown that it is difficult to isolate children in the prohibited sectors alone and work towards enforcement of law and rehabilitation of only such children. There has been a compulsion to be inclusive and rescue even such child labour that may not have fallen under the category of occupations and processes which are prohibited. Significantly this compulsion underlies the moral conflict of those intervening on the ground in neglecting or ignoring any one form of child labour and exploitation they are faced with, based on comparative distinctions of those prohibited under Act<sup>18</sup>. The Law needs to take a cue from such experiences and expand the definition of child labour. Due to the inability of the law and policies to have a rights based perspective that covers the entitlements of every child, there has not been any significant improvement in terms of reduction of child labour in the country.

## 4.2. National Child Labour Programme (NCLP) - Limitations

- 4.2.1. In its implementation the NCLP has shown that targeting children working in some notified sectors alone has not solved the problem of child labour. We have seen that such an approach may have helped some children who have been rescued from child labour but has not stopped recruitment of children in the occupations and processes that have been prohibited. Nor have their numbers decreased<sup>19</sup>. It is found that a new set of children have taken the place of those who have been withdrawn from work. **Therefore, it is impractical to focus on children in only certain sectors alone, as long as a larger environment that accepts child labour in all its forms continues to exist.**
- 4.2.2. We also note that many girl children are being left out of receiving the benefits of the NCLP programme, as it flows from the non-inclusive definition of child labour in the Act. The girls are subject to hazards of work – societal discrimination, hidden violence, exploitation – and they too need to be protected. Since not all children can be covered through such programmes there is a self-imposed limitation by focussing on children working in hazardous industries, who, despite all the emotional hype surrounding them constitute a very small proportion of child workforce.
- 4.2.3. NCLP is more or less like a scheme of setting up of some informal and parallel centres to regular schools with a focus on giving vocational skills to very young children. It is not a comprehensive policy towards total abolition of child labour with a strong strategy to enforce the law and punish the offender nor for ensuring that every child enjoys the right to education.
- 4.2.4. NCLP is based on the view that child labour is an inevitable consequence of the economic forces operating on a family, in other words it is based on the ‘poverty argument’. Therefore the only method of withdrawing a child from work is by compensating the family for the loss of income through monetary incentives, livelihood schemes and so on.

## COMPETING DEMANDS: PARENTS FOR EDUCATION vs. MARKET FOR CHEAP LABOUR

**5.1 Various studies have shown that there is an explosive demand for education among the poor today<sup>20</sup>.** This is also corroborated by the phenomenal increase in the numbers of children enrolled in schools in the recent years<sup>21</sup>. Parents, even the poorest, are not only capable of sending their children to formal daytime schools but are also willing to do so. Parents of erstwhile child labour are making enormous sacrifices to see that the education of their children is not disrupted until they finish 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 were filled with pride at the transformation of their child from a child labourer to a student. In this sense it is just a matter of time before they gain confidence to support their child's education and yearn for it. In other words, if we repose faith in the poor, they are capable of partnering in the endeavour to abolish child labour and escape the poverty trap for future generations.

**5.2 It is therefore important to recognise the crucial, and on most occasions, dominant** role which cultural and non-economic factors play in influencing parents' decision to send their children to work rather than to school<sup>22</sup>. It is also important to recognise the role of a larger social environment that encourages the poor to send their children to school and gives them confidence to do so. Finally, it is important to appreciate the difficulties faced by the children of illiterate parents in schools and the lack of preparedness of the school system to absorb poor and first generation learner children. This includes the woefully poor infrastructure and educational facilities in the government schools.

**5.3 As against the parental demand for education there is a more powerful force of the** market that prefers child labour because it is cheap. Children can be forced to work for long hours in sub-human conditions. Their exploitation goes unseen under the garb of 'charity' as if the employer was doing a favour to the child in employing her and in keeping her alive. Such exploitation of children goes unabated because there is neither shock nor outrage in society that children are at work and not at school. The tolerance of child labour is so pervasive that it gets internalised by the parents too. Absence of a social norm and corresponding weak action by the State to enforce the laws makes it easy for the market to employ children, thus perpetuating child labour.

**5.4 Thus there is a need for a legal and policy framework in support of the parental** demand for education and their battle for schools and as against the gains of the market forces in perpetuating child labour.

# RECOMMENDATIONS

## 6.1 Legal Framework

- 6.1.1. The definition of a 'child' has to include all children up to 18 years of age in consonance with the Juvenile Justice (Care and Protection of Children) Act, 2000, the Indian Majority Act, 1875; the Indian Contract Act, 1872; the Guardians and Wards Act, 1890; the Persons with Disability Act, 1995<sup>23</sup>; the Child Marriage Prevention Act, 2006; the Domestic Violence Act, 2005 and the United Nations Convention on Rights of the Child (UNCRC), 1989 as ratified by Government of India on 11<sup>th</sup> December 1992.
- 6.1.2. The legal framework must have clarity on the definition of child labour. It must be inclusive and cover all forms of work that children are engaged in.
- 6.1.3. From a rights based perspective, the definition of child labour must encompass all activities that interfere with the child's enjoyment of her right to education in a formal school.
- 6.1.4. The provision for regulation of children's work should be removed so that there is prohibition of all forms of child labour.
- 6.1.5. In the same spirit, the penal provisions must be enhanced and the enforcement machinery strengthened to such a level that it acts as a deterrent to the engagement of children as child labour.
- 6.1.6. Adequate and effective legal provisions must be in place to ensure relief, compensation and reparation and restitution for abuse, torture, harassment (physical, mental and psychological).
- 6.1.7. Based on the above principles, a detailed statement containing the Commission's recommendations on specific provision of the Child Labour (Prohibition & Regulation) Act, 1986 is attached at Annexure-1.

## 6.2 Policy Framework

### Policy for preventing and abolishing child labour

- 6.2.1. A national policy on child labour must move away from the targeted approach and address the universe of children who are out of school and engaged in some form of work or the other and insist on a rights based perspective.
- 6.2.2. The focus of the policy must be on i) strict enforcement of all the relevant laws, ii) institutionalising inter-departmental coordination for rescue operations and withdrawal of a child from labour and ensuring subsequent rehabilitation and establishment of the child's schooling path cannot be delinked and executed as separate, *silo* processes ; iii) an integrated process and appropriate protocols for all relevant cross-sectoral departments and agencies which must recognise the '**completion**' of a child labour

withdrawal process ONLY when each child is rehabilitated through mainstream schools – enrolled and established in an appropriate schooling path with strong monitoring/reporting mechanisms in place ; iv) defining for every child a path in school and for older children an appropriate education programme, v) establishing the roles and co-ordination mechanisms addressing all department/agencies/actors involved within the community mobilisation and prevention processes and the child's withdrawal, rehabilitation, schooling and monitoring processes by the Central and State governments.

- 6.2.3 Even as there is an effort to abolish child labour, major preventive strategies must form an integral part of the national policy on child labour. If children can be prevented from joining the workforce through the counselling of parents, children and employers, much of the task of various government departments and ministries would be reduced. Since the prevailing social norm justifies the working of children using the 'poverty argument', sustained social mobilization is required to change this norm.
- 6.2.4 There is an indispensable role for local bodies. At the level of *gram panchayats*, children will not be statistics but will have specific names. A record of all children in school and out of school must be maintained and even tracked. It must also maintain a record of children who have migrated from the village to be engaged in work. The *gram panchayats* have a role to press for an immediate enquiry into the whereabouts of migrant child labour and trafficked children. Given the extent of intra-state migration, *gram panchayats* also have an important role in monitoring schools<sup>24</sup>.

### Education policy to mainstream rescued child labourers and prevent child labour

- 6.2.5 The first step is to clearly enunciate a policy that 'no child must work and every child must attend full time formal school upto 18 years of age'. This policy must be recognised as non-negotiable and as a goal which it is possible to achieve.
- 6.2.6 A minimum of 6 percent of GDP has to be invested in education.
- 6.2.7 Establish and provide adequate hostels for the first generation learners from class 5 onwards, especially for girls and tribal and scheduled caste children, to enable them continue education in mainstream schools.
- 6.2.8 The education system must be geared to tackle all levels of education simultaneously, i.e. pre-school, primary, elementary, secondary and senior secondary schools and not follow a sequential model of focussing on primary school first and then the next levels<sup>25</sup>.
- 6.2.9 There must be a provision to bring the huge backlog of children who have missed out on schooling and are engaged in work into the mainstream school system with arrangements for lateral entry and preparing children for age appropriate classes. It must respond to the demand for education and provide all that is necessary in terms of infrastructure, schoolteachers and sensitivity to the first generation learner. **It must anticipate that all children who join in class one would necessarily continue up to class ten and provision must be made in anticipation for full infrastructure and teachers.**<sup>26</sup>

- 6.2.10 For older children in the 15-18 years age group who have dropped out of school even before attaining class five and for all others there has to be a policy of integrating them into an appropriate education programme that will enhance their capabilities and also give them a second chance to pursue formal education. **The State must ensure that the child studies until she completes 18 years of age, up to class 10 and even beyond. Courses of good quality are to be provided for such children who wish to opt for other educational streams after completing class 10.**
- 6.2.11 To invoke public interest and large-scale awareness on this issue, there is a need for an extensive awareness generation campaign launched over a period of time at the Centre and State on a sustained basis.

## CONCLUSION

Chronicling even one day in the life of a child labourer in the rural and urban environment would tell us how lonely and vulnerable that child's existence is. It will reveal how deprived she is of education, health, nutrition and a safe environment, how she is subject to heat and noise pollution, exposure to chemicals and pesticides—in fact how they are denied all basic human rights.

Children must be in schools and not at work, redeemed from the world of drudgery and the monotony of mindless activity. They must be in schools and not at work, as only then they would be investing in their own well-being and growth not be subjected to exploitation which creates assets and wealth for the exploiter. Children must be in schools and not at work, so that they do not live precarious lives as marginalised citizens unable to access their rights and fulfil their potential. Children must be in schools and not at work in order to access their right to education and all their entitlements to recreation, sports, co-curricular activities, health and noon-meals.

Children must be in schools and not at work so that they develop confidence to make informed choices contributing to their own communities and the world they live in as enlightened citizens. Children must be in schools and not at work to break the inter-generational cycle of poverty and ignorance. **Children must be in schools—learning to think, explore, discover, question and acquire knowledge to be one among us, enriching and liberating themselves, paving the path for future generations of children and in the process, the entire nation. Children must be in schools and not at work for a more just society with equity and fairness leading to deepening democracy in our country.**



## End Notes

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- <sup>1</sup> Non-worker by activity and age See: [http://www.censusindia.gov.in/Census\\_Data\\_2001/Census\\_Data\\_Online/Economic\\_Data/Non-Worker\\_by\\_Activity\\_and\\_Age.aspx](http://www.censusindia.gov.in/Census_Data_2001/Census_Data_Online/Economic_Data/Non-Worker_by_Activity_and_Age.aspx)
- <sup>2</sup> Out of School Children are 85 million according to Census 2001, Census of India-2001, Ministry of Home Affairs, Government of India.
- <sup>3</sup> The number was 11.3 million during 1991 (Population Census) thus showing an increase in the number of child labourers. Work has been defined in the Census 2001 as 'participation in any economically productive activity with or without compensation, wages or profit.' Such participation could be physical and/or mental in nature. This work includes supervisory work as well as direct participation in the work. The Census includes part-time help or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for domestic consumption as work. All persons engaged in 'work' as defined in the Census are considered workers. Main workers are defined as those who have worked for the major part of the reference period, which is 6 months or more. And marginal workers are those who have worked but for less than 6 months during the reference period.
- <sup>4</sup> Choudhary, D.P. (1998) *Challenge of Child Labour in Rural India: A Multi-dimensional Problem in Need of an Orchestrated Policy Response*, Working Paper presented at the ILO-IPEC Workshop on 'Policy Changes for Elimination of Child Labour in Rural Areas', NIRD, July 1998.
- <sup>5</sup> This is based on a survey conducted by the Ministry in 1997. There have not been any figure quoted since then.
- <sup>6</sup> *Ibid*, Table 6.6: Percentage of Child Workers (5-14 years) across Industry Groups by Gender 2004-05
- <sup>7</sup> Girls do all the work at home—fetching water, fuel wood, carrying siblings—almost like machines, as if it were indispensable for their families and for the society at large. Their relentless activity goes unnoticed and unrecognized. In addition, several hundreds and thousands of girls work 12 to 13 hours on farms, inhaling pesticides and other chemicals in production of vegetables, paddy, sunflower, pulses, and hybrid cottonseeds. Many such girls are subject to the hazards of physical and sexual abuse even at the young age of 10 to 12 years at the place of work. Girls' work for the family is as important as women's work. It remains invisible and unaccounted as well. All this often keeps the girl out of school.
- <sup>8</sup> See Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector of the National Commission for Enterprises in the Unorganized Sector (NCEUS) *op.cit* Table 6.4: States with High Incidence of Child Labour and Out of School Children for 2004-2005 (Labour Pool - 5-14 years -Percentage) 2007:101 – [www.nceus.nic.in](http://www.nceus.nic.in)
- <sup>9</sup> *Ibid*
- <sup>10</sup> **Dropouts in Indian Education System**
  1. Class-wise enrolment data are available from 1997-98 to 2004-05. Latest data for 2005-06 are likely to be available soon.
  2. Dropouts from each cohort of class II to class VIII of 2004-05 were calculated (repeaters and over-aged children could not be considered because of non-availability of data).
  3. If one assumes repeaters to be not significant then the dropouts can be (of course without taking into consideration the age of children) considered out-of-school. This comes to 6.55 crore children in 2004-05.

| Class Wise Enrolment in School Education |          |          |           |          |          |          |           |            |          |
|--|----------|----------|-----------|----------|----------|----------|-----------|------------|----------|
| Year                                     | Class I  | Class II | Class III | Class IV | Class V  | Class VI | Class VII | Class VIII | Total    |
| 1997-98                                  | 30580344 | 23270137 | 20530188  | 17903473 | 16497650 | 14901004 | 12920654  | 11664613   |          |
| 1998-99                                  | 30863769 | 23790605 | 21133043  | 18356484 | 16841976 | 15040344 | 13261002  | 12052012   |          |
| 1999-2000                                | 31100063 | 24036463 | 21818207  | 18989067 | 17668741 | 15726031 | 13786304  | 12552863   |          |
| 2000-01                                  | 30520579 | 23859667 | 21828033  | 19625862 | 17992837 | 16067440 | 14171068  | 12571497   |          |
| 2001-02                                  | 29699331 | 23885924 | 21670186  | 19694146 | 18933473 | 16853683 | 14804336  | 13170216   |          |
| 2002-03                                  | 32351892 | 25471433 | 23384393  | 21033858 | 20156139 | 17257237 | 15528775  | 14059195   |          |
| 2003-04                                  | 32895115 | 27212784 | 24550272  | 22293804 | 21314316 | 18001316 | 16103826  | 14641956   |          |
| 2004-05                                  | 33150037 | 27641299 | 25418928  | 22882988 | 21669815 | 18921784 | 17056735  | 15266907   |          |
| Dropouts from Their Respective Cohort    |          |          |           |          |          |          |           |            |          |
| 2004-05                                  |          | 5253816  | 6932964   | 6816343  | 8850764  | 12178279 | 11941985  | 13523609   | 65497760 |

Source: Selected Educational Statistics, MHRD, Various Years

<sup>11</sup> Report of the Study Group on Women and Child Labour, **Second National Commission on Labour, 2002**, Section viii-Recommendations, pg.220.

<sup>12</sup> Other laws on child labour are: Juvenile Justice (Care & Protection of Children) Act, 2000 (Section 26), Factories Act, 1948 (Section 67), Mines Act, 1952 (Section 40), Merchant Shipping Act, 1958 (Section 109) and Motor Transport Workers Act, 1961 (Section 21), The Children (Pledging of Labour) Act, 1933, Plantation Labour Act, 1951 (Section 2), Minimum Wages Act, 1948 (Section 2 (ii) (bb)), Apprentices Act, 1961 (Section 3), *Beedi & Cigar Workers (Conditions of Employment) Act, 1966* (Section 2 (b) & 24).

<sup>13</sup> List of occupations and processes in which Child Labour is prohibited are: **Occupations:** (1) Transport of passengers, goods or mails by railways; (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 the one platform to another or in to 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 licenses; (7) abattoirs/slaughter house; (8) automobile workshops and garages; (9) foundries; (10) handling of toxic or inflammable substances or explosives; (11) handloom and power loom industry; (12) mines (underground and underwater) and collieries; (13) plastic units and fiberglass workshops; (14) domestic workers or (15) servants and (16) *dhabas* (roadside eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers.

**Processes** (1) *Beedi* making; (2) carpet weaving; (3) cement manufacture, including bagging of cement; (4) cloth printing; (5) dyeing and weaving; (6) manufacture of matches, explosives and fireworks; (7) mica cutting and splitting; (8) shellac (9) manufacture (10) soap manufacture; (11) tanning; (12) wool - cleaning; (13) building and construction industry; (14) manufacture of slate pencils (including packing); (15) manufacture of products from agate; (16) Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos; (16) **“hazardous processes”** as defined in **Sec. 2 (cb)** and **‘dangerous operation’** as noticed in rules made under **Section 87** of the Factories Act, 1948 (63 of 1948); (17) **Printing** as defined in **Section 2(k) (iv)** of the Factories Act, 1948 (63 of 1948); (18) Cashew and cashewnut descaling and processing; (19) Soldering processes in electronic industries; (20) *aggarbatti* manufacturing; (21) Automobile repairs and maintenance including processes incidental thereto namely, welding, lathe work, dent beating and painting; (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 scraping of lead paint, burning of lead in enameling workshops, lead mining, plumbing, cable making, wiring patenting, lead casting, type founding in printing shops, store typesetting, assembling of cars, shot making and lead glass blowing; (31) manufacture of cement pipes, cement products and other related work; (32) manufacture of glass, glassware including bangles, florescent tubes, bulbs and other similar glass products; (33) manufacture of dyes 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 sports goods involving exposure to synthetic materials, chemicals and leather; (38) moulding and processing of fiberglass and plastic; (39) oil expelling and refinery; (39) paper making; (40) potteries and ceramic industry; (41) polishing, moulding, cutting, welding and manufacturing of brass goods in all forms. (42) processes in agriculture where tractors, threshing and harvesting machines are used and chaff cutting; (43) saw mill – all processes; (44) sericulture processing; (45) skinning, dyeing and processes for manufacturing of leather and leather products; (46) stone breaking and stone crushing; (47) tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form; (48) tyre making, repairing, re-treading and graphite beneficiation; (49) utensils making, polishing and metal buffing; (50) '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.

<sup>14</sup> See Proviso under Section 3 and Section 9.3 of the CLPR Act, 1986

<sup>15</sup> Supreme Court of India in Unnikrishnan vs State of Andhra Pradesh: 1993, 1SCC - 645

<sup>16</sup> For example growing numbers of children engaged in the *zari* industry, carpet industry as part of household work and not establishment or workshops.

<sup>17</sup> Act is informed by the Recommendations of the Gurupadha Swamy Committee, 1979: Ministry of Labour and Employment, Government of India

<sup>18</sup> Similar observations have been made in the report, *Enabling the Most Deprived Children to Learn: Lessons from Promising Practices*, INDUS, Child Labour Project, Report Commissioned by Department of Elementary Education and Literacy, MHRD, GOI and INDUS Project, ILO, New Delhi

<sup>19</sup> According to the Plan document of the Ministry of Labour and Employment (MOLE) has withdrawn 2.11 lakh children from the labour force since the inception of NCLP in 1988

<sup>20</sup> DISE, NUEPA, 2007; Seventh All India Educational Survey, NCERT; Also see Public Report on Basic Education (PROBE), New Delhi : Oxford University Press, c1999

<sup>21</sup> See [www.ssa.gov.in/joint-review-mission-ssa/6th%20JRM-Aide-Memoire.pdf](http://www.ssa.gov.in/joint-review-mission-ssa/6th%20JRM-Aide-Memoire.pdf): The proportion of out of school children in the 6-13 age group, computed on the basis of door to door annual surveys by teachers, is reported to have dropped to about 3.5% (about 70 lakh children) in 2004-05 and more or less stagnant (about 75 lakh children) in 2006-07 against an independently verified proportion of about 6.94% in September 2005. The dropout rates too continue to decline except in about 97 districts where they are stagnant. The national dropout rates before completing primary stage have dropped from 14.9% to 10.39% between 2002-03 and 2005-06. Simultaneously, the transition rates from primary to upper primary stage have risen by about 10 percentage points to 83.36%.

<sup>22</sup> See for example the results of the programmes under the SSA where a large number of children were withdrawn from work and mainstreamed into schools such as the KGBVV after going through a residential bridge course as in the case of the programmes in MP, Bihar, UP more recently and Rajasthan and Andhra Pradesh earlier. Most of these children were rescued from migration were workers on farms, quarries and mines, cattle herders. They were also child labour in *zari*, textiles and other industries.

<sup>23</sup> Section 26 of the Disability Act, (Chapter V-Education) mandates that **Appropriate Governments and local authorities to provide children with disabilities free education, etc.** The appropriate Governments and the local authorities shall ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;

<sup>24</sup> See Karnataka Panchayat Raj Act 1993 and Karnataka Grama Panchayats (School Development and Monitoring Committee) 9 Model) Bye-Laws 2006 and Act and AP G.O. No. 2

<sup>25</sup> In the Constituent assembly debate Dr BR Ambedkar makes an observation that the child should have a minimum of ten years education, therefore a suggestion by member Mr.Naziruddin Ahmad to make an amendment to the said proposal in order to consider only primary education compulsory was not accepted. Ambedkar even goes to the extent of saying that the child even if employed below the age of 14 must be kept occupied in some educational institution. In other words, Ambedkar clearly argued that with the provision that 'is made in article 18 to forbid any child being employed below the age of 14.... Obviously, if the child is not to be employed below the age of 14, the child must be kept occupied in some educational institution. That is the object of article 36, and that is why I say the word "primary" is quite inappropriate in that particular clause and I therefore oppose his amendment.' After sixty years of independence it is necessary to revise Ambedkar's view of the age at which child labour can be tolerated. There has been tremendous change in circumstances since then. Children today need at least 12 years of continuous education and complete secondary school in order to be prepared for a world of market and opportunities (As cited in Niranjanaradhya, *fundamentals of the fundamental right to education in india, Books for Change, Action Aid India, Bangalore: 2006, Pg.5* and also end note 39 on page 26 Sourced from the Constituent assembly debate volume 7, November 23, 1948, also available at <http://parliamentofindia.nic.in/ls/debates/vol7p11.htm>).

<sup>26</sup> Once in school children's survival in the school system until they finish class 10 is precarious. There are several structural reasons for older children being pushed out. There are just not enough upper primary and high schools. The system is structured on the premise that almost 1/3<sup>rd</sup> of children entering primary school will drop out before they reach upper primary and another 1/3<sup>rd</sup> before they reach high school and so on. Thus if 100 children join in class one only ten of them are able to reach up to class 10. 54.6% children (56.9 girls) drop out before they complete class 8 and 66% (68.6% girls) drop out before they reach class 10. These percentages are appallingly low in tribal areas, backward districts and among the Scheduled Castes and Scheduled Tribes.

## Amendments Proposed by the National Commission for Protection of Child Rights (NCPCR) to CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (Act No. 61 of 1986)

The amendments as proposed below to the CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (Act No. 61 of 1986) flow from the provisions of Article 21 and 21A of the Constitution of India.

| Sl. | Existing Section/Provision  | Amendments   | Remarks  |
|-----|---|--|--|
| 1.  | 1. <b>Short title</b> , extent and commencement – (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.   | The Act may now be re-titled as the “Child Labour Prohibition Act, 1986”   | The re-titling of the Act is in consonance with the objective of the proposed amendments to the Act.   |
| 2.  | 2 (i) <b>“appropriate government”</b> means, “in relation to an establishment under the control of the Central Government or a railway Government, and in all other cases, the State Government”. | No amendment proposed to Section 2(i) of the Act.  |  |
| 3.  | 2 (ii) <b>“child”</b> means a person who has not completed his fourteenth year of age.  | 2 (ii) now may be read as, “ ‘Child’ means a person who has not completed his eighteenth year of age.”   | This definition is in consonance with the definition of “child” under the J.J. Act, 2000 [Section 2(k)] & UN CRC (Art.1), ratified by India on 9.12.1992.  |
| 5.  |   | A new sub-section may be added after 2 (ii) as 2 (ii) (a) with the following provision:<br><br><b>“Child Labour”</b> means any child who is employed directly (by an employer) or through any (contractor) agency or work done by materials given by an Employer or a Contractor whether for wages or not, including casual labour or domestic worker or servant, in any factory, occupations, processes including agriculture and allied activities, establishment, godown, workshop and includes home based work or family based work or that interferes with the child’s right to education, leisure and/or is harmful to the child’s health and/or physical, mental, spiritual, moral or social development. | The CL (P&R) Act, 1986 does not define the term “child labour”. The proposed definition is based upon the provision of Article 32(1) of the United Nations Convention on the Rights of the Child (CRC) which has been recognized and ratified by the Government of India on 11 <sup>th</sup> of December 1992. |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
|-----|---|--|---------|
| 6   |   | A new sub-section may be added after 2 (ii) as 2 (ii) (b) with the following provision:<br><br>“ <b>Child Labour Prohibition Officer</b> ” means the officer to be appointed under Section 17 A (1)  |         |
| 7   |   | A new sub-section may be added after 2 (ii) as 2 (ii) (c) with the following provision:<br><br>“ <b>Committee</b> ” means the Child Labour Monitoring Committee to be constituted under Section 5  |         |
| 8.  |   | A new sub-section may be added after 2 (ii) as 2 (ii)(d) with the following provision:<br><br>“ <b>Employer</b> ” means the owner or the occupier or the manager or contractor and their agents, or any persons responsible for the supervision and control of the establishment, as well as the person who has the ultimate control over the affairs of such employment, including the investor, who employs a child.   |         |
| 9.  | 2.(iii) “ <b>day</b> ” means a period of twenty-four hours beginning at midnight.   | No amendment proposed to Section 2 (iii) regarding the definition “day”.   |         |
| 10. | 2 (iv) “ <b>Establishment</b> ” includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating-house, theatre or other place of public amusement or entertainment | The existing provision under Section 2(iv) may be replaced by the following:<br><br>“ <b>Establishment</b> ” means any place where any industry, trade, business, manufacture or occupations or processes is carried on and includes a shop, commercial establishment, workshop, farm including agriculture and allied activities, residential hotel, restaurant, eating-house, dhabas (roadside eateries), motels, resorts, spas, recreational centres, theatre or other place of public amusement, entertainment and/or home or family based work, (processes or occupations). |         |
| 11. | 2 (v) “ <b>Family</b> ”, in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual.   | The existing provision under Section 2(v) may be read as follows:<br><br>“ <b>Family</b> ”, in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother, sister, maternal or paternal uncle, aunt, or cousin or any other relatives of such individual.   |         |
| 12. |   | A new sub-section may be added after 2 (v) as 2 (v)(a) with the following provision:<br><br>“ <b>Inspector</b> ” means the Inspector appointed under Section 17 (1) of the Act.  |         |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
|-----|---|--|---------|
| 13. | 2 (vi) <b>“Occupier”</b> , in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop;          | The existing provision under Section 2(vi) may be replaced by the following:<br><b>“Occupier”</b> means a person who is the owner or his agents, or one on whose behalf the process or occupation is being undertaken as well the person who has the ultimate control over the employment of a child and including the investor. |         |
| 14. | 2 (vii) <b>“Port authority”</b> means any authority administering a port.   | No amendment proposed to Section 2(vii) regarding <b>“Port authority”</b> .  |         |
| 15. |   | A new sub-section may be added after 2 (vii) as 2 (vii)(a) with the following provision:<br><b>“Prescribed School Vacations”</b> means the school holidays as declared by the competent authorities at both Central and State levels as the case may be.   |         |
| 16. |   | A new sub-section may be added after 2 (vii) as 2 (vii) (b) with the following provision:<br><b>“Right to Education”</b> means a child’s participation in formal school upto 18 years of age   |         |
| 17. |   | A new sub-section may be added after 2 (vii) (a) as 2 (vii) (c) with the following provision:<br><b>“School Participation”</b> shall mean presence of a child in a full time formal school during school hours and engaging in activities that enables her participation in school as a student.                                 |         |
| 18. | 2 (viii) <b>“Prescribed”</b> means prescribed by rules made under Section 18.   | No amendment proposed to Section 2 (viii).   |         |
| 19. | 2 (ix) <b>“Week”</b> means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector. | No amendment proposed to Section 2 (ix).   |         |

| Sl. | Existing Section/Provision  | Amendments  | Remarks  |
|-----|---|---|--|
| 20. | 2 (x) <b>“Workshop”</b> means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of Sec. 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.   | The existing provision under Section 2 (x) may be deleted in view of the inclusive definition of <b>“Establishment”</b> as proposed in the amendment to Section 2 (iv).   | This is in view of the in view of the inclusive definition of “Establishment” as proposed in the amendment to Section 2 (iv).                            |
| 21. | <b>PART II: Prohibition of Employment of Children in Certain Occupations and Processes</b>  | <b>The title of PART II of the Act may be read as “Prohibition of Child Labour”</b>   | As no distinction is made between ‘hazardous’ & ‘non-hazardous’ employment/work/occupation/process under the Amendment proposed to Section 3 of the Act. |
| 22. | <p><b>3. Prohibition of employment of children in certain occupations and processes</b> – No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on</p> <p>Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by or receiving assistance or recognition from the Government.</p> | <p>The existing provision under <b>Section 3</b> may be replaced by the following:</p> <p><b>3. Prohibition of employment of children-</b></p> <p>(1) No child shall be engaged in any Establishment that denies her right to education.</p> <p>(2) No child shall be offered, procured, trafficked or used for:</p> <p>(a) bonded or forced labour;</p> <p>(b) prostitution, production of pornography or for pornographic performance;</p> <p>(c) illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties to which India is a party;</p> <p>(d) work which, by its nature or the circumstances in which it is carried out is harmful to her life, health, safety, education or morals.</p> <p><i>[Explanations: 1. ‘Bonded Labour’ in this Act will have the meaning as defined in the Bonded Labour (Abolition) Act, 1976 and as propounded by Supreme Court in the case of Bandhua Mukti Morcha vs. Union of India, 1984. 2. ‘Forced Labour’ in this Act will have the same meaning as assigned under the Forced Labour Convention of ILO (No. 29) which has been ratified by India.]</i></p> | As no distinction is made between ‘hazardous’ & ‘non-hazardous’ employment/work/occupation/process under the Amendment proposed to Section 3 of the Act. |



| Sl. | Existing Section/Provision  | Amendments   | Remarks   |
|-----|---|--|---|
| 23. | <p><b>4. Power to amend the Schedule</b><br/>– The Central Government, after giving by notification in the official Gazette, not less than three months’ notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.</p>  | <p>The existing provision under <b>Section 4</b> regarding “<b>Power to amend the Schedule</b>” in the Act may be deleted.</p>   | <p>As no distinction is made between ‘hazardous’ &amp; ‘non-hazardous’ employment/work/occupation/process under the Amendment proposed to Section 3 of the Act.</p> |
| 24. | <p><b>5. Child Labour Technical Advisory Committee</b> – (1) The Central Government may, by notification in official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereinafter in this section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.</p> <p>(2) The Committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.</p> | <p>The existing provisions under <b>Section 5</b> regarding Child Labour Technical Advisory Committee may be replaced by the following provisions regarding Child Labour Monitoring Committee</p> <p><b>5. Child Labour Monitoring Committee:–</b></p> <p>(1) The Appropriate Government shall, by notification in the official gazette, constitute a Committee at Central, State, District, Block and Village Panchayat level to be called the Child Labour Monitoring Committee.</p> <p>(2) The functions of the Committee shall include:</p> <p>(i) To monitor and advise the Central Government, State Government and District Administration.</p> <p>(ii) To take steps for the prevention of child labour,</p> <p>(iii) To monitor the enforcement of prohibition of employment of children.</p> <p>(iv) To support measures for the rescue of child labour</p> <p>(v) To monitor programmes for the rehabilitation of child labour.</p> |   |

| Sl. | Existing Section/Provision  | Amendments   | Remarks  |
|-----|---|--|--|
|     | <p>(3) The term of office of, the manner of filling causal vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.</p> | <p>(3) The Committee at various levels shall be constituted as prescribed.</p> <p>(4) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.</p> <p>(5) The Committee may, if it deems it necessary to so do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.</p> <p>(6) The term of office of, the manner of filling causal vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.</p> |  |
| 25. | <p><b>Part III: Regulation of Conditions of Work of Children</b></p>  | <p><b>The title of the Part III of the Act may be called “Monitoring of Conditions of Work of Children in the Age group of 15 to 18 Years during Prescribed School Vacations”.</b></p>   |  |
| 26. | <p><b>6. Application of Part</b> – The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in Sec. 3 is carried on.</p>  | <p>The existing provision under <b>Section 6</b> may be replaced by the following:</p> <p><b>6. Application of Part</b> - This Part shall apply to children in the age group of 15 to 18 years only who might be working during Prescribed School Vacations.</p>   | <p>In principle children up to 18 years must be given the opportunity to enhance their curricular and co-curricular activities during vacations.</p> |
| 27. | <p><b>7. Hours and period of work</b> – (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.</p>  | <p>The existing provision under <b>Section 7</b> may be replaced by the following:</p> <p>(1) The period of work on a day during Prescribed School Vacations shall be so fixed that it does not exceed three hours at a stretch and the child has an interval for rest for at least one hour before she resumes her work;</p>  |  |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
|-----|---|--|---------|
|     | <p>(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.</p> <p>(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section(2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.</p> <p>(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.</p> <p>(5) No child shall be permitted or required to work overtime.</p> <p>(6) No child shall be permitted or required to work in any establishment on any day on which he has already been working in another establishment.</p> | <p>(2) The total hours of work in any day during Prescribed School Vacation does not exceed five hours including the time spent for rest and waiting for the work;</p> <p>(3) No child shall be permitted to work between 3 p.m. and 9 a.m. at any time.</p>   |         |
| 28. | <p><b>8. Weekly holidays</b> – Every child employed in an establishment shall be allowed in each week, a holiday or one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.</p>   | <p>The existing provision under <b>Section 8</b> may be replaced by the following:</p> <p><b>8. Weekly holidays</b> - Every child working in an establishment during Prescribed School Vacations shall be allowed a minimum of three holidays per week as per her wish and convenience. This shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the Establishment, a copy of which shall also be given to the child in a language understood by her.</p> |         |

| Sl. | Existing Section/Provision   | Amendments   | Remarks |
|-----|--|--|---------|
| 29. | <p><b>9. Notice to Inspector</b> – (1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:</p> <p>(a) the name and situation of the establishment;</p> <p>(b) the name of the person in actual management of the establishment;</p> <p>(c) the address to which communications relating to the establishment should be sent; and,</p> <p>(d) the nature of the occupation or process carried on in the establishment.</p> <p>(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars as are mentioned in sub-section (1).</p> | <p>The existing provision under <b>Section 9</b> may be replaced by the following:</p> <p><b>9 (1)</b> Every occupier in relation to an Establishment in which a child in the age group of 15 to 18 years working within a period of thirty days from the commencement of the Amended Act, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely :</p> <p>(a) no child is permitted to work in the establishment, except, in the age between 15 and 18 years during Prescribed School Vacations;</p> <p>(b) the name and situation of the establishment;</p> <p>(c) the name of the person in actual management of the establishment;</p> <p>(d) the address to which communications relating to the establishment should be sent; and,</p> <p>(e) the nature of the occupation(s) or process(es) carried on in the establishment.</p> <p>(2) The Employer shall send the list of children between the ages of 15 and 18 years who might be working during Prescribed School Vacations to the Inspector having jurisdiction over the establishment prior to commencement of the work for approval. A copy of the list shall also be sent to the Committee and the headmistress/principal of the school where the child is studying.</p> |         |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
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|     | <p><i>Explanation – For the purposes of sub-sections (1) and (2), “date of commencement of this Act, in relation to an establishment” means the date of bringing into force of this Act in relation to such establishment.</i></p> <p>(3) Nothing in Secs. 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any schools established by, or receiving assistance or recognition from, Government</p> |  |         |
| 30. | <p><b>10. Disputes as to age</b> – If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed authority, be referred by the Inspector for decision to the prescribed medical authority.</p>   | <p>The existing provision under <b>Section 10</b> may be replaced by the following:</p> <p><b>10. Disputes as to age</b> – If any question arises as to the age of any child the following procedure shall be followed in determination of age:</p> <p>(1) In every case concerning a child identified by a Child Labour Prohibition Officer, an Inspector or any person the following procedure shall be adopted for determining the age of the child labour:</p> <p>(a) (i) the matriculation or equivalent certificates, school leaving certificate if available; and in the absence whereof,<br/> (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;<br/> (iii) the birth certificate given by a corporation or a municipal authority or a <i>panchayat</i>;</p> <p>(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the child in the manner that may be prescribed.</p> |         |

| Sl. | Existing Section/Provision   | Amendments   | Remarks |
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| 31. | <p><b>11. Maintenance of register</b> – There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment showing</p> <p>(a) the name and date of birth of every child so employed or permitted to work;</p> <p>(b) hours and periods of work of any such child and the intervals of rest to which he is entitled;</p> <p>(c) the nature of work of any such child; and</p> <p>(d) such other particulars as may be prescribed</p> | <p>The existing provision under <b>Section 11</b> may be replaced by the following:</p> <p><b>11. Maintenance of register-</b> There shall be maintained by every occupier in respect of a child between 15 and 18 years of age, working in any establishment during Prescribed School Vacations, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment showing:</p> <p>(a) the name and date of birth of every child so working;</p> <p>(b) timing of her work (days, hours and duration)</p> <p>(c) intervals of her work and duration of rest;</p> <p>(d) the nature of work of her work; and</p> <p>(e) the time of her arrival and departure from work for the day with signature.</p> |         |
| 32. | <p><b>12. Display of notice containing abstract of Secs. 3 and 14</b> – Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of Section 3 and 14.</p>   | <p>The existing provision under <b>Section 12</b> may be replaced by the following:</p> <p><b>12. Display of notice containing abstract of Secs. 3 and 14 –</b></p> <p>(1) Every employer shall cause to be displayed in a conspicuous and visible location in any place of employment a notice in the local language and in the English language containing an abstract of Section 3 and Section 14 of the Act including but not limited to all public and government institutions and Local government institutions and establishments in any locality, town and/or city.</p>  |         |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
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| 33. | <p><b>13. Health and safety</b> – (1) The appropriate Government may, by notification in the official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.</p> <p>(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely :</p> <ul style="list-style-type: none"> <li>(a) cleanliness in the place of work and its freedom for nuisance;</li> <li>(b) disposal of wastes and effluents;</li> <li>(c) ventilation and temperature;</li> <li>(d) dust and fumes;</li> <li>(e) artificial humidification;</li> <li>(f) lighting;</li> <li>(g) drinking water;</li> <li>(h) latrine and urinals;</li> <li>(i) spittoons;</li> <li>(j) fencing of machinery;</li> <li>(k) work at or near machinery in motion;</li> <li>(l) employment of children on dangerous machines;</li> <li>(m) instructions, training and supervision in relation to employment of children on dangerous machines;</li> </ul> | <p>The existing provision under <b>Section 13</b> may be replaced by the following:</p> <p><b>13. Health and safety</b> – (1) The appropriate Government may, by notification in the official Gazette, make rules for the health and safety of the children in the age group of 15 to 18 years working in any establishment during Prescribed School Vacations.</p> <p>(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely :</p> <ul style="list-style-type: none"> <li>(a) cleanliness in the place of work and its freedom for nuisance;</li> <li>(b) disposal of wastes and effluents;</li> <li>(c) ventilation and temperature;</li> <li>(d) dust and fumes;</li> <li>(e) artificial humidification;</li> <li>(f) lighting;</li> <li>(g) drinking water;</li> <li>(h) latrine and urinals;</li> <li>(i) spittoons;</li> <li>(j) fencing of machinery;</li> <li>(k) work at or near machinery in motion;</li> <li>(l) employment of children on dangerous machines;</li> <li>(m) instructions, training and supervision in relation to employment of children on dangerous machines;</li> </ul> |         |

| Sl. | Existing Section/Provision  | Amendments  | Remarks   |
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|     | <ul style="list-style-type: none"> <li>(n) device for cutting off power;</li> <li>(o) self-acting machinery;</li> <li>(p) easing of new machinery;</li> <li>(q) floor, stairs and means of access;</li> <li>(r) pits, sumps, openings in floors, etc.;</li> <li>(s) excessive weight;</li> <li>(t) protection of eyes;</li> <li>(u) explosive or inflammable dust, gas, etc.;</li> <li>(v) precautions in case of fire;</li> <li>(w) maintenance of buildings; and</li> <li>(x) safety of buildings and machinery.</li> </ul> | <ul style="list-style-type: none"> <li>(n) device for cutting off power;</li> <li>(o) self-acting machinery;</li> <li>(p) easing of new machinery;</li> <li>(q) floor, stairs and means of access;</li> <li>(r) pits, sumps, openings in floors, etc.;</li> <li>(s) excessive weight;</li> <li>(t) protection of eyes;</li> <li>(u) explosive or inflammable dust, gas, etc.;</li> <li>(v) precautions in case of fire;</li> <li>(w) maintenance of buildings; and</li> <li>(x) safety of buildings and machinery.</li> </ul> |   |
| 34. | <p><b>14. Penalties</b> – (1) Whoever employs any child or permits any child to work in contravention of the provisions of Sec. 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.</p>  | <p>The existing provision under <b>Section 14</b> may be replaced by the following:</p> <p><b>14. Penalties</b> - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.</p>  | <p>This is in consonance with Section 27 of Juvenile Justice (Care &amp; Protection of Children) Act, 2000 &amp; Section 22 of the Bonded Labour (Abolition) Act, 1976.</p> |



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|     | <p>(2) Whoever, having been convicted of an offence under Sec. 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.</p> <p>(3) Whoever –</p> <p>(a) fails to give notice as required by Sec. 9, or</p> <p>(a) fails to maintain a register as required by Sec. 11 or makes any false entry in any such register; or</p> <p>(b) fails to display a notice containing an abstract of Sec. 3 and this section as required by Sec. 12; or</p> <p>(c) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder;</p> <p>shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both</p> | <p>(2) Whoever contravenes the provision of sub-section 1 of Section 3 shall be punishable with imprisonment for a term which shall not be less than 1 year but which may extend to three years and shall also be liable to fine which shall not be less than Rs. 20,000 but which may extend to Rs.1,00,000.</p> <p>(3) Whoever, having been convicted of an offence under Sub-Section (2) above, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to six years and shall also be liable to fine which shall not be less than Rs. 40,000 but which may extend to Rs. 2,00,000.</p> <p>(4) Where an act or omission constitutes an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offences shall be liable to prosecution only under such Act that provides for punishment which is higher in degree.”</p> <p>(5) Whoever fails to display a notice containing an abstract of Sec. 3 and this section as required by Sec. 10;</p> <p>Shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than Rs. 10,000 but which may extend to Rs. 20,000 or with both.</p> <p>(6) Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same penalty as is provided for the offence which has been abetted.</p> <p><i>(Explanation: for the purpose of this Act, “abetment” has the meaning assigned to it in the Indian Penal Code (45 of 1860)).</i></p> | <p>The imprisonment provision is in consonance with Section 26 of Juvenile Justice (Care &amp; Protection of Children) Act, 2000</p> <p>This is analogous to Section 28 of the Juvenile Justice (Care &amp; Protection of Children) Act, 2000.</p> <p>This is analogous to Section 20 of the Bonded Labour (Abolition) Act, 1976</p> |

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| 35. | <p><b>15. Modified application of certain laws in relation to penalties –</b> (1) Where any person is found guilty and convicted of contravention of any of the provisions mentioned in sub-section(2), he shall be liable to penalties as provided in sub-sections (1) and (2) of Sec. 14 of this Act and not under the Acts in which those provisions are contained.</p> <p>(2) The provisions referred to in sub-section (1) are the provisions mentioned below:</p> <p>(a) Section 67 of the Factories Act, 1948 (63 of 1948);</p> <p>(b) Section 40 of the Mines Act, 1952 (35 of 1952);</p> <p>(c) Section 109 of the Merchant Shipping Act, 1958 (44 of 1958); and</p> <p>(d) Section 21 of the Motor Transport Workers Act, 1961 (27 of 1961).</p> | <p>The existing provision under <b>Section 15</b> may be deleted in view of the proposal contained in at 14 (4) above. In its place, the following may be adopted:</p> <p><b>15. Children between 15 &amp; 18 years of age, working in the home-based and family led establishment-</b></p> <p>(1) The inspector shall trace out the ultimate employer, occupier and/or middleman or agent who are beneficiaries of the child labour, and prosecute them as per the provisions as of Section (7). A report of the same shall be forwarded to the Child Labour Prohibition Officer within 24 hours of the Act.</p> <p>(2) In case of the child working in the unit from one's own home or farm, independent of employer, occupier, middlemen and/or agents, who are beneficiaries of child labour, it is the duty of the local school teacher to visit the home, talk to the parents and convince them to send their child to school. A report of the same shall be forwarded by the school teacher or <i>Gram Panchayat</i> Member/President to the Child Labour Prohibition Officer within 24 hours.</p> <p>(3) In such a case, it is the responsibility of the concerned authority to ensure admission of the child to the school and prepare him for an age appropriate class.</p> <p>(4) The <i>Gram Panchayat</i> shall have the responsibility to monitor the regular attendance of the child in school and also take appropriate steps to persuade the parents who fail to adhere to the advice given by local school teacher.</p> |  |
| 36. | <p><b>16. Procedure relating to offences –</b> (1) Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any Court of competent jurisdiction.</p>   | <p>The existing provision under <b>Section 16</b> may be replaced by the following:</p> <p><b>16. Procedure relating to offences –</b></p> <p>(1) Any person (person includes Social organization, Child Labour Prohibition Officer or Inspector) may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction.</p>   | <p>This is analogous to Section 20 of the Bonded Labour (Abolition) Act, 1976.</p> |

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|     | <p>(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.</p> <p>(3) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offence under this Act.</p> | <p>(2) Every certificate as to the age of a child granted as per Section 9 shall for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.</p> <p>(3) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offence under this Act. The Magistrate shall have summary trial of the cases of violation under this Act for quick disposal of cases.</p> <p>(4) The traffickers, middlemen, agents, etc. shall also be liable for prosecution for aiding and abetting the procurement/trafficking of children for child labour and shall be punishable as per the provisions under Section 14(2).</p> <p>(5) Special courts, as many numbers as necessary for speedy trial of cases, shall be set up by Appropriate Government within 120 days from the commencement of the Amendment Act for trying cases relating to violation of the Act so as to have quick disposal of cases.</p> <p>(6) Whether a child was working in an establishment in bondage condition or otherwise, the burden of proof in this regard shall lie on the employer.</p> |         |
| 37. |  | <p>A new section in continuation <b>Section 16</b> may be inserted to the Act as follows:</p> <p><b>16A. Child Labour Rehabilitation-Cum-Welfare Fund/Account:</b></p> <p>(1) Strict action shall be taken by the Inspector against the defaulting employer/occupier/abettor found contravening the provision of the Act under Section 3 and shall ensure the recovery of an amount of Rs. 20,000/ 40,000/1 lakh from him under this Act as well as fines under other related Acts, which shall be deposited in a fixed term account in the name of the rescued child which the State Government shall also contribute Rs. 20,000.</p> <p>(2) The proceeds from the savings in the child labour's account shall be utilized towards her education, health care, vocational training, etc.</p>   |         |

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|     |   | <p>(3) The mother of the child and in the absence of the mother, her father or the legal guardian shall be the custodian of her account until she attains the age of 18 years and ensure that the proceeds/interests accrued from the fixed deposit account is utilized towards her education, health care, vocational training, etc., in a meaningful way.</p> <p>(4) The Committee as envisaged under Section 5 of the Act at block and district level shall monitor and review the recovery from the defaulters as well as the deposit from the Government.</p>   |         |
| 38. | <p><b>17. Appointment of Inspectors</b> – The appropriate Government may appoint inspectors for the purposes of securing compliance with the provisions of this Act and any inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).</p> | <p>The existing provision under <b>Section 17</b> may be replaced with the following:</p> <p><b>17 (1) Appointment of Inspectors</b> – The appropriate Government may appoint inspectors for the purposes of securing compliance with the provisions of this Act and any inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).</p> <p><b>(2) Powers of Inspectors</b> –</p> <p>(a) Enter, with such assistants, being persons in the service of the Government, or any local or other public authority, [or with an expert,] as he thinks fit, any place which is used, or which he has reason to believe is used, for employment of Child Labour;</p> <p>(b) Make examination of any factory, mine, plantation, occupations, processes including agriculture and allied activities, establishment, godown, workshop or home based employment.</p> <p>(c) Inquire into any accident or dangerous occurrence involving children, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;</p> <p>(d) Require the production of any prescribed register or any other document relating to the place of employment and the employer;</p> <p>(e) Seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of any offence under this Act, which he has reason to believe has been committed;</p> |         |

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|     |                            | <p>(f) Direct the employer that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under this section;</p> <p>(g) Take measurements, and photographs and make such recordings as he considers necessary for the purpose of any examinations under clause (b), taking with him any necessary instrument or equipment;</p> <p>(h) Exercise such other powers as may be prescribed;</p> <p>(3) The Inspectors appointed under the Act are empowered to search and seize, particularly, to search residential premises to detect cases of children engaged as domestic workers.</p> <p>(4) If the Inspector has reason to believe that an offence under this Act has been or is being committed by any employer, the Inspector shall enter and search at all reasonable times with such assistance, if any has he considers necessary, such place of employment where children are employed, on finding any child so employed, shall take into his custody the child or children and produce the child or children before a Judicial Magistrate of the First Class or a Metropolitan Magistrate within 24 hours.</p> <p>(5) The Inspector shall send report on the steps taken to the Child Labour Prohibition Officer within a period of 24 hours.</p> |         |
| 39. |                            | <p>A new section in continuation of <b>Section 17</b> may be inserted to the Act as follows:</p> <p><b>17A. Child Labour Prohibition Officer(s):-</b></p> <p>(1) The State Government shall, appoint for the whole State/district/block or such part thereof an officer or officers to be known as the Child Labour Prohibition Officer having jurisdiction over the area or areas.</p> <p>(2) The State Government may also request a (respectable) member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Labour Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.</p>   |         |

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|     |                            | <p>(3) It shall be the duty of the Child Labour Prohibition Officer : –</p> <ul style="list-style-type: none"> <li>(a) to prevent employment of child labour by taking such action as he may deem fit;</li> <li>(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act and the same shall be forwarded to the Inspector appointed under Section 17 (1);</li> <li>(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the employment of child labour; <ul style="list-style-type: none"> <li>a) to create awareness of the evil which results from child labour</li> <li>b) to sensitize the community on the issue of child labour;</li> <li>c) to furnish such periodical returns and statistics as the State Government may direct; and</li> <li>d) to discharge such other functions and duties as may be assigned to him by the State Government.</li> </ul> </li> </ul> <p>(4) (a) On receipt of a report from the Inspector under Section 17 (5), the Child Labour Prohibition Officer shall inform the parents or guardian of the child about being produced before the magistrate and shall hand over the child or children to their respective parents.</p> <p>(b) If the whereabouts of the parents are not known or if the parents are living away from the place of the employment, the officer shall take all necessary steps to place the child or children in a safe shelter home.</p> <p>(5) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Labour Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Labour Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.</p> <p>(6) The Child Labour Prohibition Officer shall have the power to move the Court for an order under Section along with the child or his parent or guardian or a member of public.</p> |         |

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|     |  | <p>(7) To make a Child Labour Employment Report to the magistrate in such form and such manner as may be prescribed, on his own motion or upon receipt of a complaint about employment of Child Labour;</p> <p>(8) To make available a safe shelter home if the child so requires and forward a copy of his report of having lodged the child in a shelter home to the magistrate having jurisdiction.</p> <p>(9) To ensure that the monetary relief under Section 23 is complied with and executed, in accordance with the procedure described under the Code of Criminal Procedure, 1973 (2 of 1974).</p> <p>(10) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.</p> <p>(11) Mainstreaming children taken out of employment and re-admission in the schools/ vocational training/ITI.</p> <p>(12) To perform such other duties as may be prescribed.</p> |         |
| 40. | <p><b>18. Power to make rules –</b></p> <p>(1) The appropriate Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :</p> | <p>No amendment proposed to Section 18 (1) The appropriate Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.</p> <p>No amendment proposed to Section 18 (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.</p>   |         |

| Sl. | Existing Section/Provision  | Amendments  | Remarks |
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|     | <p>(a) the term of the office of, the manner of filling casual vacancies of, and the allowances payable to, the Chairman and members of the Child Labour Technical Advisory Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of Sec. 5;</p> <p>(b) number of hours for which a child may be required or permitted to work under sub-section (1) of Section 7;</p> <p>(c) grant to certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued; Provided that no charge shall be made for the issue of any such certificate of the application is accompanied by evidence of age deemed satisfactory by the authority concerned;</p> | <p>Existing provision under Section 18 (2) (a) may be replaced with the following:<br/> “the term of the office of, the manner of filling casual vacancies of, and the allowances payable to the child Labour Monitoring Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of Sec.5;”</p> <p>Existing provision under Section 18 (2) (b) may be replaced with the following:<br/> “(b) number of hours for which a child may be required or permitted to work under Section 7;”</p> <p>Existing provision under Section 18 (2) (c) may be replaced with the following:<br/> “(c) the form, charges, and the manner in which certificates of age towards the determination of the age of a child as required under Sections 3, 6, 7, 9, and 10 (b) may be issued as well as the medical authority who may issue such certificate.</p> <p>Provided that no charge shall be made for the issue of any such certificate of the application is accompanied by evidence of age deemed satisfactory by the authority concerned.”</p> |         |



| Sl. | Existing Section/Provision  | Amendments  | Remarks |
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|     | (d) the other particulars which a register maintained under Sec. 11 should contain.   | Section 18 (2) (d) may be deleted in view of the particulars specified in the Amendments proposed to Section 11.                |         |
| 41. | <p><b>19. Rules and notifications to be laid before Parliament or State legislature –</b></p> <p>(1) Every rule made under this Act by the Central Government and every notification issued under Sec. 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.</p> | No Amendment proposed to <b>Section 19</b> regarding Rules and notifications to be laid before Parliament or State legislature. |         |

| Sl. | Existing Section/Provision  | Amendments   | Remarks |
|-----|---|--|---------|
|     | (2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the Legislature of that State.  |  |         |
| 42. | <b>20. Certain other provisions of law not barred</b> – Subject to the provisions contained in Sec. 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948 (63 of 1948), the Plantations Labour Act, 1951 (69 of 1951) and the Mines Act, 1952 (35 of 1952).   | The existing provision under <b>Section 20</b> may be replaced with the following:<br><b>20. Certain other provisions of law not barred</b> –<br><br>The provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of the provisions of the Factories Act, 1948 (63 of 1948), the Plantations Labour Act, 1951 (69 of 1951), the Mines Act, 1952 (35 of 1952), the Bonded Labour (Abolition) Act, 1976, The Juvenile Justice (Care and Protection of Children) Act, 2000 and the Indian Penal Code, 1860”. |         |
| 43. | <b>21. Power to remove difficulties</b> – (1) If any difficulty arises in giving effect of the provisions of this Act, the Central Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty :<br><br>Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.<br><br>(2) Every order made under this section shall, as soon as may be after it is made, before the Houses of Parliament. | No Amendment proposed to <b>Section 21</b> relating to <b>Power to remove difficulties</b> .   |         |

| Sl. | Existing Section/Provision  | Amendments  | Remarks |
|-----|---|---|---------|
| 44. | <p><b>22. Repeal and savings</b> – (1) The Employment of Children Act, 1938 (26 of 1938) is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.</p>   | No Amendment proposed to <b>Section 22</b> regarding the <b>Repeal and savings</b> .  |         |
| 45. | <p><b>23. Amendment of Act 11 of 1948</b> – In Sec. 2 of the Minimum Wages Act, 1948 –</p> <p>(i) for Cl. (a), the following clauses shall be substituted, namely :</p> <p>“(a) ‘adolescent’ means a person who has completed his fourteenth year of age but has not completed his eighteenth year;</p> <p>(aa) ‘adult’ means a person who has completed his eighteenth year of age;”:</p> <p>(ii) after Cl.(b), the following clause shall be inserted, namely :</p> <p>“(bb) ‘child’ means a person who has not completed his fourteenth year of age;”.</p> | <p>The existing provision under <b>Section 23</b> of the Act relating to the Minimum Wages Act (No 11), 1948 may be replaced with the following:</p> <p>“ ‘Child’ means a person who has not completed his eighteenth year of age”.</p> |         |

| Sl. | Existing Section/Provision   | Amendments  | Remarks   |
|-----|--|---|---|
| 46. | <p><b>24. Amendment of Act 69 of 1951</b> – In the Plantations Labour Act, 1951</p> <p>(a) in Sec.2 in Cls.(a) and (c), for the word “fifteenth”, the word “fourteenth” shall be substituted;</p> <p>(b) Sec. 24 shall be omitted;</p> <p>(c) in Sec. 26, in the opening portion, the words “who has completed his twelfth year” shall be omitted.</p> | <p>The existing provision under <b>Section 24</b> of the Act relating to the Plantation Labour Act, 1951 in Section 2 in Cls (a) and (c) may be replaced with the following:</p> <p>“ ‘Child’ means a person who has not completed his eighteenth year of age.”</p> |   |
| 47. | <p><b>25. Amendment of Act 44 of 1958</b> – In the Merchant Shipping Act, 1958, in Sec. 109, for the word “fifteen”, the word “fourteen” shall be substituted.</p>   | <p>The existing provision under <b>Section 25</b> of the Act relating to the Merchant Shipping Act, 1958 in Section 109 may be replaced with the following:</p> <p>“for the word ‘fourteen’, the word ‘eighteen’ shall be substituted.”</p>                         |   |
| 48. | <p><b>26. Amendment of Act 27 of 1961</b> – In the Motor Transport Workers Act, 1961 in Sec.2, in Cls.(a), and (c), for the word “fifteenth”, the word “fourteenth” shall be substituted</p>   | <p>The existing provision under <b>Section 26</b> of the Act relating the Motor Transport Workers Act, 1961 in Sec.2, in Cls.(a) and (c) may be replaced with the following:</p> <p>“for the word ‘fourteen’, the word ‘eighteen’ shall be substituted.”</p>        |   |
| 49. | <p><b>Schedule ( Part A &amp; B) of the Act</b></p>  | <p>The Schedule ( Part A &amp; B) of the Act may be deleted as no distinction is made between ‘hazardous’ &amp; ‘non-hazardous’ employment/work/occupation/process under the Amendment proposed to Section 3 of the Act.</p>  | <p>As no distinction is made between ‘hazardous’ &amp; ‘non-hazardous’ employment/work/occupation/process under the Amendment proposed to Section 3 of the Act.</p> |



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