

RECOMMENDATIONS

Many civil society organisations including Campaign Against Child Labour (CACL), have been campaigning for the past 20 years, for free, compulsory, quality and equitable education for children upto 18 years and complete ban on all forms of child labour up to 18 years.

The Government of India should prepare a road map for blanket ban on child labour up to 18 years as per the National Policy for Children, 2013. To address the current situation of amendment to CLPRA, we demand the following:

Remove the proviso in Section 3 of the CLPRA Amendment Bill 2012 which legalises use of child labour in family enterprises.

Reinstate the original list of hazardous occupations (18 occupations and 65 processes) in Schedule and update the list with occupations and processes, which are hazardous, based on an assessment of the newly emerging occupations on account of urbanisation and technological changes.

Remove the punishment clause for parents/guardians of child labourers; strengthen social security measures for them.

Constitute Child Labour Rehabilitation Fund in all the Districts, since there is no child labour free District in the country.



Campaign Against Child Labour (CACL) is a national level civil society forum initiated in 1993, comprising more than 3000 organisations across 18 States of the country. CACL leads the campaign for complete eradication of all forms of child labour up to 18 years.

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Child Rights Focus (CRF) is a knowledge initiative hosted by ActionAid to further the cause of complete realisation of child rights in India. CRF strives to positively impact policy, programmes and institutions for the benefit of all children and especially those from the excluded groups, communities and sections of society.

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ActionAid is an anti-poverty agency working in India since 1972, currently reaching out to over 6 million people every year, who belong to marginalised and socially excluded communities. It operates in 25 states and 1 Union Territory.

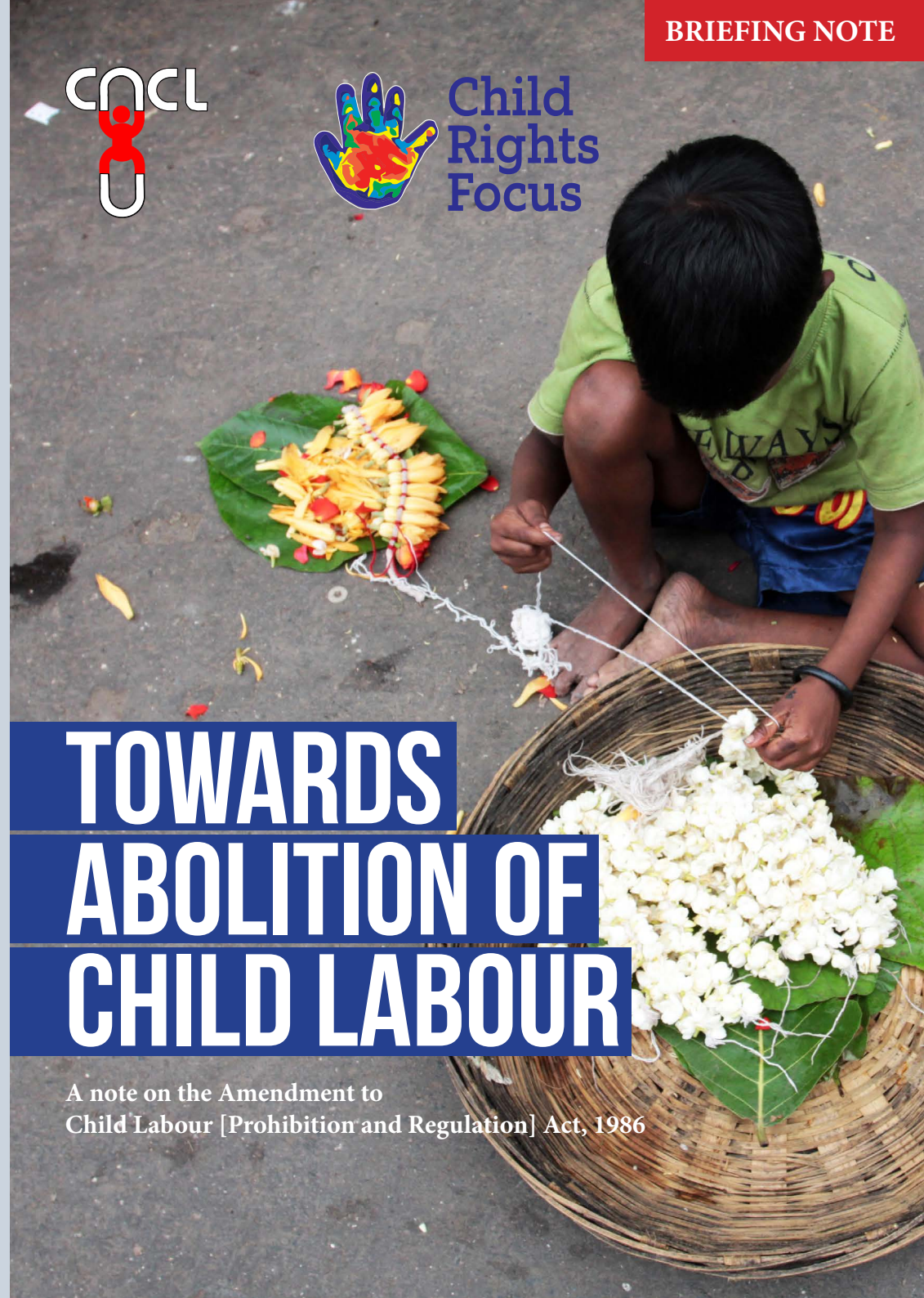
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Child
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TOWARDS ABOLITION OF CHILD LABOUR

A note on the Amendment to
Child Labour [Prohibition and Regulation] Act, 1986

Background

Child Labour [Prohibition & Regulation] Act, 1986 came into effect repealing the Employment of Children Act, 1938.

CLPRA, 1986 prohibits employment of children below 14 years in hazardous occupations, i.e. 18 occupations and 65 processes listed in Section 3 – The Schedule of the Act; and regulates employment of children below 14 years in occupations and processes not covered in the Schedule.

CLPRA 1986 has several gaps. For example, in drawing a distinction between hazardous and non-hazardous occupations and processes it justifies and perpetuates child labour and is contrary to their fundamental rights, especially the right to education. It does not cover rights of children in the 14-18 years age group contrary to the UNCRC. The enforcement of this Act is also not effective; and prosecutions and convictions are very low. Hence there is definitely a need to amend this Act.

Child Labour [Prohibition & Regulation] Amendment Bill, 2012 by UPA II

CLPRA Bill, 2012 was introduced by UPA II in Rajya Sabha on December 4, 2012. This Bill proposed to

prohibit employment of children below 14 years in all occupations and prohibit employment of children between 15 and 18 years (a new term `adolescents' was introduced to refer to this group) in hazardous occupations. Number of Hazardous Occupations was brought down to (1) Mines, (2) Inflammable substances or explosives and (3) Hazardous process (as assigned in clause (cb) of the Factories Act, 1948).

The penalty for employing a child was increased to imprisonment between 6 months and two years (from 3 months to one year) or a fine of Rs 20,000 to Rs 50,000 (from Rs 10,000 to Rs. 20,000) or both. The penalty for employing an adolescent in hazardous occupation is imprisonment between 6 months and two years or a fine of Rs 20,000 to Rs 50,000 or both.

Even for children below 14 years, exemption was given to occupations and processes where the child helps his/ her family after school hours or helps his/ her family in fields, home-based work, forest gathering.

Parliamentary Standing Committee on Labour mentioned in its 40th Report in December 2013, that the Ministry was itself providing loopholes by inserting this proviso since it would be very difficult to make out whether children were merely helping their parents or working to supplement the family

income. The Committee further stated that allowing children to work after school was detrimental to their health, as rest and recreation was important for the fullest physical and mental development in the formative years besides adversely affecting their studies.

Amendment to Child Labour [Prohibition & Regulation] Amendment Bill, 2012 by NDA

BJP, in its Manifesto for Lok Sabha Elections 2014, promised that it would review, amend and strengthen the Child Labour (Prohibition & Regulation) Amendment Bill, 2012.

But the Union Cabinet has approved an amendment to relax the Child Labour law to allow children below 14 years to help his/ her family or family enterprises, which is other than any hazardous occupations or processes set forth in the Schedule, after his/her school hours or during vacations.

Definition of family has been expanded to include not only mother, father, brother, sister but also father's sister and brother and mother's sister and brother.

Definition of Family Enterprise has been expanded to include any work, profession, manufacture or business which is performed by the members

of the family with the engagement of other persons.

The justification that it would be prudent to also keep in mind the country's social fabric and socio-economic conditions to allow this, is nothing but reinforcing the caste-based discrimination and caste-based occupations. The explanation that working in family enterprises at an early age helps children to learn skills early in their life runs against the process of social mobility through education to occupations outside the traditional family ones.

Emphasizing the need to provide choice in occupation, beyond the caste ordained ones, Dr. Ambedkar, the architect of our Constitution had pointed out:

“Social and individual efficiency requires us to develop the capacity of an individual to the point of competency to choose and to make his own career. This principle is violated in the Caste System in so far as it involves an attempt to appoint tasks to individuals in advance.....”. He also argued for the need to choose one's occupation in different times in order to make a livelihood. He said: “Industry is never static. It undergoes rapid and abrupt changes. With such changes an individual must be free to change his occupation. Without such freedom.... it would be impossible for him to gain his livelihood”.