

## Child Labour: The Child Labour doesn't Work!

### I. INTRODUCTION

India is home to the largest population of children in the world numbering 447 million, according to UNICEF State of the World's Children 2009, but the country also has the highest number of children engaged in work. Due to the largely invisible nature of children's work, exact statistics are hard to come by and estimates range from the Indian Government's figure of 12.6 million to ILO at 44 million and civil society estimates of 70-80 million.

### II. KEY ISSUES

Child labour is a complex issue and perhaps the most contentious subject in the development sector. What are the factors pushing children into the labour force? Is child labour mainly because of poverty or because of the socio-cultural sanction that allows it? Or is it because of the State's inability to provide compulsory quality and inclusive elementary education and lack of political will to abolish child labour? What forms of work can be deemed as child labour, and where does one draw the line between working at home, e.g. children working with their artisan parents and working in factories? What is hazardous and non-hazardous work? Can child labour ever be abolished in India? If it is possible, what needs to be done? This position paper tries to analyse these issues within India's socio-cultural and economic context.

#### Forms of work:

Children work within the household and for household production, such as family farms or family businesses. They work to earn money through wages or self-employment. They work in order to enable others to work, for example by caring for siblings whilst their parents work.

The majority of child labour is invisible. Unlike the stereotyped images of sweatshops and mines, the majority of the child work force is made up of rural working children employed in agricultural and allied activities. Children also work in small-scale household industries such as beedi rolling and embroidery. Equally important are the thousands of boys and girls put to work as domestic servants for rich and middle class families.



#### Children's work at home: where to draw the line?

Anti-child labour advocates are often asked the question whether all work done by children constitutes child labour. For example, if a child helps her/his mother in the kitchen should they be prohibited from doing so or if a father asks his son or daughter to watch the shop for a couple of hours does this constitute exploitative labour? Should these forms of children's work be banned?

The answer to these questions lies in whether a child's work interferes with their education and holistic development. If not, these forms of work may actually be beneficial to children educationally and socially. Also, children often perceive themselves to have a responsibility to contribute to household survival and wellbeing. Children all over the world are given chores by their parents and families, and as long as this does not interfere with other learning and socialisation activities, a child's work is an important part of their socialisation. Such work may help children to develop self-confidence and respect in their communities and may constitute part of children's participation in their own cultural and social development and that of their communities. However, if a child attends school and returns home to work with parents in weaving carpets, has no time for recreation and play and enjoying their childhood, then this type of work may be deemed exploitative and detrimental to the holistic development of the child.

Some argue that working at home in traditional artisan work, in fact, provides apprenticeship in traditional occupations of their family and the child will obtain more relevant skills in life. The notion that children should do what their parents do is

# Child Labour - Position Paper

denying the rights of children to make choices about their profession, and in many ways reinforces a caste-based system of occupation. It is argued that when children work under the supervision of their parents it cannot be considered hazardous and exploitative labour. However, our experience suggests that these children are denied schooling and do longer hours of work and since it is home based are often out of the purview of protection systems.

## III. OVERALL STATEMENT OF SAVE THE CHILDREN

*Save the Children believes that work in all its forms, paid or unpaid in any process or occupation (agriculture or manufacturing) which affects the proper and full development of a child should be stopped for all children up to the age of 14 on an urgent basis. For 15-18 year olds, work should be strictly regulated and only permitted in a non-hazardous and non-exploitative environment.*

## IV. ELABORATION OF SAVE THE CHILDREN'S POLICY & STRATEGIES

### *A position rooted in experience and the rights of the child*

Save the Children Alliance has its own position on children and work, which reflects Save the Children's own experience worldwide with working children. Save the Children's position on child labour is rooted in the socio-cultural and economic reality of this country and is based on an analysis of the situation of working children in India. This position paper is based on Constitutional provisions and many State and Union legislations and Acts as well as on the key principles of the UN Convention on the Rights of the Child: survival, non-discrimination, participation, and action in children's best interests. Article 32 of the UNCRC, in particular, recognises “the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”

A common refrain in India is that the abolition of child labour is not possible, and if it has not been possible to date to eradicate child labour within “hazardous” industries then terming all forms of child labour as hazardous does not help to eradicate child labour. Child labour is not unique to our country; many other countries in the past have successfully abolished child labour by making elementary schooling free and compulsory for all children. Moreover, if all children are entitled to educational opportunities, then the division between hazardous and non-hazardous work is an arbitrary one. As a champion of child rights, Save the Children takes the position that protects the rights of all children up to 18 years. For children between 15 and 18 years of age, all work should be strictly regulated with the State progressively taking measures to eliminate child labour in this age category as well as ensuring that primary school education is free and compulsory.



### **Our approach:**

In tackling child labour we will adopt a holistic child rights approach. Our strategies for addressing child labour issues are: prevention, withdrawal, protection and participation of children. Prevention is our primary long-term aim. This means it is imperative to identify children at potential risk, keeping them out of work and preventing them from becoming child labourers in the first place. This entails ensuring that parents see schooling as the best option for their children. Investment in the prevention of child labour is the most cost-effective approach to ending child labour in the long term as compared to withdrawal from work and subsequent rehabilitation of children by identifying working children, removing them from the workforce and getting them into schools and skills training programmes. Measures to withdraw children from child labour need persuasive techniques and constructive dialogue with partner organisations, children, employers and law enforcement authorities. Children will be at the centre of our planning, approach and strategy; they are not mere victims, they have the capacity to kindle change if appropriate space and opportunities are provided.

### *Poverty and social inequalities must be tackled as root causes*

While not the only cause, poverty is a root cause of child labour. Because of the dire poverty in which they live, many children have limited options as they often need to work to ensure their own, and their family's survival. In some cases, the

# Child Labour - Position Paper

unregulated rapid growth of market economies has exacerbated the situation by increasing insecurity and poverty. Child labour is also a question of economics; there is a high demand for child labour as children are paid very little and often nothing at all and they are, therefore, a far cheaper and malleable form of labour allowing employers to have a higher profit margin. Children are also far less likely to complain about working conditions or wage rates.

However, poverty is not the sole reason for the prevalence of child labour; there are other inequalities that determine which children work and what work they do. Sex and caste are important here. For example, girls may be expected to work while their brothers attend school. Certain so-called lower castes are led to believe that education is of no value to their children and their destiny is to work and serve the other so-called higher castes. Children of migrant workers or children who are trafficked may be especially vulnerable to hazardous and exploitative forms of work. Social and cultural sanctions which tolerate the practice of child labour and the State's inadequate action towards abolition of child labour are also responsible factors.

## Education

The failure of the State to provide free and relevant education, especially for the poorest and most marginalised groups of children, is one of the most significant causes of child labour. In many instances schools do not exist in certain rural areas, and where they do exist are of such a low standard that they do not fulfil a child's learning needs. In these cases parents feel it

is not worthwhile sending their children to school.

Universal free and compulsory education is a key step on the path to abolishing child labour. Improvements in the quality and relevance of education, and a reduction in the cost to the family for sending their children to school can have a significant impact.



Universal free and compulsory elementary education is one of the most important steps in order to abolish child labour. Sensitive scheduling of school timetables and calendars to coincide with hours of part-time or seasonal work can enable many working children, especially those in rural areas, to attend school and reduce the likelihood of engaging full-time in hazardous or exploitative occupations.

Often poor quality education, discrimination against certain sections of the society, lack of provision of drinking water and sanitation facilities for children in schools, especially for girl children, force children to drop out of school. Our experience suggests eight years of school is not sufficient to prepare a child for a career.

Therefore, Save the Children believes it is imperative to continue to advocate for free and compulsory, quality and inclusive secondary school education up to the 10th standard. For those children who have missed out on opportunities to obtain an education, special provisions should be made to provide relevant and quality education and assist them with learning and acquiring skills to develop educationally and socially. Currently, education programmes for children engaged in labour are conducted and coordinated by the Labour Department. Our experience suggests that it would be more feasible and implementation would improve if the Education Department took responsibility to provide relevant, inclusive and quality education to child workers within an inclusive education framework, and under its mandate of providing “education for all”.

## Legislative Reform

Legislation is an important tool for addressing problems of child work. The present Child Labour Prohibition and Regulation Act 1986 (CLPRA) is not sufficient to address child labour issues; therefore, Save the Children demands that the CLPRA should be scrapped and/or amended. ***All forms of child labour for children up to 14 years of age should be prohibited. Between the ages of 15 -18 children should only be allowed to work to gain experience and knowledge and it should be properly regulated. To make child labour a cognisable offence, the onus of burden documenting the age of the child should be with the employer*** and if it is found that employers have falsified and/or failed to obtain verifiable documentation of a child's age, they should be punished.

# Child Labour - Position Paper

Simply enacting legislation is not enough -- there should be strict enforcement with district magistrates being held accountable to abolish child labour in their respective districts. Abolition of child labour should be statutory on the part of all local self-government bodies, both rural and urban. There are a number of changes needed in the CLPRA in terms of definition, clarity of role and responsibilities of various agencies, prosecution of offenders, provision of heavy punishment and provision of comprehensive rehabilitation, education and welfare of children and their families. Moreover, Save the Children believes that the **focus should be on legislation which protects rather than punishes working children**. Raids and so-called rescue operations should be geared to protect children and proper rehabilitation measures should be taken. It is essential to accompany these efforts with sensitisation and capacity-building programmes for enforcement personnel and other allied services for effectively enforcing laws and provide protection and welfare services to the children and their families.

## *Elimination: "Rescue" of children from workplaces*

Save the Children supports the "rescue" of children from work, but the rescue action should not further victimise the victim (child labourer); rescue operations should be conducted in a non-threatening manner. Indeed, the whole legal process should be conducted in a child-friendly manner. In all such instances, the views of children themselves should be sought, and a well-thought-out follow-up and rehabilitation programme is critical. This may involve family-tracing, education, including non-traditional education, alternative income-generating schemes for children's family and awareness-raising.

## *Improving the life of older working children 15-18 years*

Save the Children recognises the reality that many older children between 15-18 years of age may remain engaged in the labour force in the short and medium term and need to be protected. However, children from 15-18 years should not be engaged in any hazardous and exploitative forms of work. This may require protective measures, improving occupational safety and health (OSH) and better working conditions and arrangements in the workplace while simultaneously providing alternative opportunities, skills development, life skills for better training and employment. The quality of working children's lives can be improved by support services for working children, such as non-formal education, programmes to help children find safer means of generating income, and facilitating the development of working children's groups. Employers should play a role, for example, by providing better services, by adapting technologies to children's capacities, by increasing wages and by reducing working hours to allow child workers to combine employment and school. However, such activities alone cannot change the situation.



## *Social mobilisation and social support to abolish child labour*

SCBR believes that social mobilisation that seeks to support the abolition of child labour is a critical tool at a number of levels, including with parents, children, employers, consumers, government, donors and the media. Raising awareness should form part of a wider strategy to eradicate all forms of child labour. Child labour should be made socially and culturally unacceptable.

## *Responses should be guided by the best interests of the child*

Initiatives relating to children and work should be guided by the principles of action in the best interests of children, and their participation in decision-making. This may reduce the likelihood of strategies constituting conscience-easing measures for policy-makers and consumers of products of child labour. At the same time, civil society organisations must work in consultation and coordination with children in the planning, design and implementation of responses. Any programme, whether on child work issues or in other fields, must include a careful analysis of the likely implications of proposed interventions for the workload, conditions, safety and health and welfare of children.

# Child Labour - Position Paper

Working children know their own situation best. Programming with working children and on working children's issues should involve their inclusive participation and that of their families.

## Child Protection System and Services

Save the Children firmly believes there should be a child protection system to protect the children in including child workers from abuse and exploitation. Protection systems and structures are important to i) ensure universal and equitable



protection for *all* children, especially the most vulnerable, ii) to *promote* and *enforce* standards in the care and protection of children, iii) to efficiently *manage* and *coordinate* resources allocated for protection services, iv) to give children *reliable* access to care and protection when needed and to maximise the sustainability of protection services. Working children are undoubtedly most vulnerable; it is not enough to just remove them from work they also need special protection services as well. More importantly, it is not enough to remove working children from labour but also ensure that other children do not fall into child labour.

Preventive measures must form part of this framework over time. Save the Children has

extensive experience that suggests that the community could play an important role to prevent children from engaging in the labour force by supporting children and their families and to help children already working to move out of work and obtain better opportunities in life. Community action should also be supported by State supported systems and services at the district and State levels. Therefore, we demand the State creates a child protection system at the national, State and district levels and clearly linked with community based mechanisms to provide integrated child protection services to children, including working children.

## V. FUTURE DIRECTIONS

In most cases there are a combination of factors that push and pull children into work. There is a need to work on both the demand and supply side to abolish child labour.

Addressing poverty and inequality is critical to reducing the need for children to work. This can and should take place on a number of levels and with a range of institutions. Actions may range from direct responses to the needs of working and non-working children and their families, to advocacy on the root causes with donors, governments, the private sector and NGOs. Among the issues for advocacy are trade and economic policy regarding goods produced with child labour, employment legislation and practice, social protection schemes, and their effective implementation and adequate government expenditure towards elimination of child labour including implementation of the concerned laws...



While it may not be possible for Save the Children to provide direct economic support to the parents of working children; efforts will be made to link the families of children to various social security and social welfare schemes of the State and Union Governments such as the National Rural Guarantee Employment Scheme.

# Child Labour - Position Paper

## Advocacy calls:

- All forms of child labour for children up to 14 years of age are unacceptable and must stop
- Enactment of Free and Compulsory Elementary Education Bill is important to provide elementary education for all
- Make the employment of a child a cognisable offence
- Onus of verifying the age of a child should be on the employer
- Provide certificate of release to all child workers and ensure their proper rehabilitation and education opportunities
- Provide support to the families of released child workers
- All Education programmes for child workers should be run by the Education Department
- Child labour for children between the ages of 15 and 18 should be progressively abolished and education up to the 10<sup>th</sup> standard should be made free and compulsory. Until this becomes a reality, strict regulations for children working between the ages of 15-18 should be adhered to
- Major Amendments in CLPRA and revamping the National Policy for Child Labour
- Setting up Child Protection Systems and Services and linking with community based mechanisms
- Participation of working children in rescue, rehabilitation and programme implementation for child labour
- Principle of best interest of the child should must be adhered to in all actions

To advocate for the total prohibition of child labour up to the age of 14 years, Save the Children is working at both the community level and policy level, demonstrating how it is possible to remove children from working conditions, supporting former child workers/labourers to get education, vocational education and enjoy their childhood.

We are currently working in 10 States, specifically targeting children engaged in agricultural work including cotton fields, children in domestic work, trafficked children and those at the risk of trafficking. We are also working with the wider public and civil society to make child labour socially and culturally unacceptable.

