

**REQUEST FOR DELETION OF THREAD/YARN MADE IN INDIA
FROM TVPRA LIST**

**MADE BY
THE COTTON TEXTILES EXPORT PROMOTION COUNCIL (TEXPROCIL)
INDIA**

2012

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I. INTRODUCTION

A. IDENTITY OF THE SUBMITTER OF INFORMATION

1.1 The Cotton Textiles Export Promotion Council i.e. TEXPROCIL is an autonomous organisation under the Ministry of Textiles, Government of India. The mandate of TEXPROCIL includes, inter alia, to promote, support, protect, maintain and increase the export of all cotton textiles including cotton yarn, fabric, Made ups and Home textiles and overall development of the cotton textile industry in India.

B. OBJECTIVES OF THE SUBMISSION

1.2 US Department of Labour (“DOL”) included Thread/Yarn from India in the list made pursuant to Trafficking Victims Protection Reauthorization Act 2005 (“TVPR Act”), TEXPROCIL will provide all available information with regard to the existence or otherwise of child labour practices in India with particular reference to the industry.

1.3 TEXPROCIL would continue its efforts in informing DOL of the latest developments with regard to abolition of child labour practices in the industries concerned in India; and in persuading DOL to delete the two products from the lists in question.

1.4 TEXPROCIL would like to furnish relevant and probative information that would show why removal of the two products from both the lists is necessary.

1.5 For the reasons detailed herein below, TEXPROCIL requests DOL to delete Thread/Yarn from the TVPRA list at the earliest.

C. STRUCTURE OF THE SUBMISSION

1.6 TEXPROCIL intends to make a comprehensive submission on a variety of issues that are relevant in arriving at a determination to delete Thread/Yarn from India from the TVPRA list. This submission covers the following:

- (a) Introduction
- (b) Inappropriateness of the Bibliography relied on by US DOL
- (c) Information on the initiatives taken by Indian Industry
- (d) Information on the initiatives taken by Government of India
- (e) Information on the initiatives taken by State Governments
- (f) Initiative taken by Civil Society in Combating Child Labour Issues

- (g) Thread/Yarn should be removed from the List
- (h) Legal Issues in the publication of the List
- (i) Conclusion

1.7 In this submission, TEXPROCIL has attempted an objective analysis of all the factual information that it has collected from various sources. The analysis shows that there is no significant incidence of child labour in the textile sector making the two products in question.

II. INCLUSION OF THREAD/YARN IN TVPRA LIST DOES NOT MEETS THE REQUIREMENTS OF §. 105(B)(2) OF TVPRA

2.1 The TVPRA list does not fulfill the requirement under Section 105(b)(2) of the TVPRA, 22 U.S.C. 7112(b)(2) as there is no ‘reason to believe’ that the product is question is produced through the use of child labour.

D. DOCUMENTS IN THE BIBLIOGRAPHY INDIVIDUALLY DO NOT SHOW SIGNIFICANT INCIDENCE OF CHILD LABOUR

i). GENERAL COMMENTS

2.2 TEXPROCIL would like to submit that bibliography relied upon by the US DOL does not indicate that the problem of child labour exists in Cotton Yarn industry in India. Bibliographies provided by US DOL do not indicate significant instances of Child labour in this product in India. The press report and survey reports included in the Bibliography either demonstrate stray incidents in some obscure small mills or do not correspond to the issue of child labour at all. Comments on why the sources relied upon by US DOL do not support determination made by it are given below:

ii). ANTI-SLAVERY INTERNATIONAL OFFICIAL. INTERVIEW WITH USDOL OFFICIAL, FEBRUARY 13, 2012

2.3 The information is not made available to us and therefore it is not possible for us to comment on the content of the source. US DOL is requested not to rely on the same as it under an obligation as per the TVPRA to rely on information, which is publicly available.

iii). ANTI-SLAVERY INTERNATIONAL OFFICIAL *SLAVERY ON THE HIGH STREETS: FORCED LABOUR IN THE MANUFACTURE OF GARMENTS FOR INTERNATIONAL BRANDS. 2011*

- 2.4 As the title of the Bibliography suggests, the Report is highlighting primarily the incidents of Forced Labour in Garment Industry. Even assuming that Report can be relied upon by the US DOL for pointing out significant problem, it is only restricted to manufacture of garment industry in and not in the Thread/Yarn industry per-se. Moreover, the reliance on this report for the purpose of inclusion of yarn/thread in the list for the problem of child labour is grossly inappropriate as the report only indicates stray incidents of forced labour.
- 2.5 Chapter 2 of the Report which indicates the problem of Child Labour in Delhi based garment manufacturers itself points out that garment manufacturers do not have integrated units with the capacity to produce yarn, weave and print the cloth.
- 2.6 Page 3 of the TVPRA Report indicates that if it has a reason to believe that the child labour is employed at a particular stage of production it will include the goods manufactured at that stage of production and not the upstream or the downstream product.¹ However, the report precisely does that in case of cotton yarn by relying on the report of garments for the purpose of including yarn/thread in TVPRA list as well.
- 2.7 Report indicates that the ‘Sumangali scheme’ in Southern India results in forced labour and child labour. However, as indicated herein in this submission there is no such ‘Sumangali scheme’ in place. Moreover, report only adopts the incidents occurring in one particular mill out of a total of around 2000 mills in Southern India. However, the report fails to extend beyond a small sample and draws monumental conclusions, which are in contradiction with the realities in these mills.

iv). CENTER FOR RESEARCH ON MULTINATIONAL CORPORATIONS AND INDIA COMMITTEE OF THE NETHERLANDS. *CAPTURED BY COTTON. [ONLINE] MAY 2011*

- 2.8 The Report concentrates on the working conditions in Tamil Nadu. The methodology used in the report, the pre-conceived notions regarding the employment policies, extremely limited size of sampling, baseless assumptions and blatantly incorrect depiction of conditions at workplace casts immense doubts over the veracity of the findings and conclusions arrived at in the report.
- 2.9 Report in its introductory part alleges the problem regarding excessive work, low wages, no access to grievance mechanisms or redress, restricted freedom of movement and

¹ TVPRA Report, September 26, 2012, p. 3

limited privacy.² All the above allegations are factually incorrect and blatantly false specifically with regard to the four mills mentioned in the report i.e. Bannari Amman Group, Eastman Exports, KPR Mill, and SSM India. As already noted by the express news report that ‘seeing is believing’.³ There are absolutely no such violations or problems as mentioned herein in these four textile mills. The list of positive bibliography, company profile, opinions of visitors including Government officials from India and other countries have described the conditions prevailing in these mills. All the visitors have expressed positive responses and some of them have gone on to the extent of stating that the working conditions and facilities provided by these mills are the benchmark for the rest of the manufacturing industry to follow. The wages paid by these mills are as high as Rs. 200/day⁴ and all the workers including the apprentices are entitled to all the statutory benefits regarding provident fund, gratuity and bonuses as per the policy adopted by these mills even though there is no such obligation on the company with regard to apprentices.

2.10 Further, hostel is not compulsory for the workers⁵ and it is provided for convenience of the workers and to ensure safety of women workers. The finding regarding restricted freedom of movement is thus misplaced. As already noted the mills are bound to follow the circulars mandating the formation of complaint mechanism.⁶ Overtime to women employees is only offered upto a maximum of 16 hrs/month. Daily working hours do not extend beyond eight hours in these mills. Also, it is important to note that many workers who join as an apprentice for a period of three years will not leave the mills at the end of the apprenticeship but normally a significant percentage of workers will be made as permanent workers.

2.11 33 workers and 102 workers were interviewed by the ICM and SOMO respectively, out of which ‘many girls’ were reluctant to give interview.⁷ It is to be noted that there are around 20,000 workers working in these seven mills in Tamil Nadu, alone which are mentioned at several places in these sources. It is highly naïve to arrive at any general conclusions based on such a small sample size. Facts discerned from tiny sample surveys, at best may be more in the nature of stray incidents and not rather than an indicator of any discerning trend regarding the problem of child labour.

² Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p.1

³ Express News Report 18.09.2005

⁴ See Recruitment Guidelines and Code of Disciplines for Women Employees in Textile Mills, Southern India Mills Association, Coimbatore, p. 11

⁵ Recruitment Guidelines and Code of Disciplines for Women Employees in Textile Mills, Southern India Mills Association, Coimbatore, p. 12

⁶ See also, IRecruitment Guidelines and Code of Disciplines for Women Employees in Textile Mills, Southern India Mills Association, Coimbatore, p. 9

⁷ Recruitment Guidelines and Code of Disciplines for Women Employees in Textile Mills, Southern India Mills Association, Coimbatore, p. 4

- 2.12 Apart from interviews, the report has relied on the response of the multinational companies who are buyers of the cotton yarn from these mills. We fail to understand how the multinational companies whose headquarters are situated outside India will be able to effectively describe the conditions prevailing in over 2000 mills in Tamil Nadu.
- 2.13 Statements made in the report are absolutely unsubstantiated and are not supported by any evidence. For instance reports in its chapter 1 suggest that mills operate 24 hours a day and thus require large number of workers.⁸ There is absolutely no mention of the basis on which such understanding was arrived at.
- 2.14 Chapter 2 of the report specifically notes that the recruitment of ‘Dalit’ (Women belonging to Schedule Caste & Tribes) women in the mills is on a high.⁹ We fail to understand as to why the employer is to be concerned about the caste of his employees and why they should avoid recruitment of Dalit women. Again, there is no basis for the allegation regarding discrimination meted out to these workers. There can be some instances where employees are facing problems generally and for that purpose a complaint mechanism is already in place in these mills. Report acknowledges that ‘Dalits’ generally belong to lower strata of society and do not get adequate opportunities to work in decent environment and are often found performing inhuman work like manual scavenging and disposing of dead bodies etc. In such circumstances, the recruitment of dalit workers especially women dalit workers for productive purposes should be encouraged for their overall upliftment Dalit girls are equally entitled to use all the benefits which are provided in these mills. The report indicates that the number of children employed in these mills is alarming. There is absolutely no statistics, which these reports seem to rely on for making such blanket statements.¹⁰
- 2.15 Chapter 3 notes that women workers are recruited by these textile mills based on ‘Sumangali scheme’.¹¹ Misunderstandings regarding the Sumangali scheme already been highlighted in this report and is not repeated here for the sake of brevity. The report itself acknowledges the facility provided by KPR Mills in its report.¹²

⁸Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p. 7

⁹ Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p.9

¹⁰Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p. 14

¹¹Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p. 21 & 23

¹²Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p. 23

- 2.16 The report has overwhelmingly relied on the opinion given by one or two female workers for each type of the problem mentioned in the report and for arriving at a particular conclusion.
- 2.17 Reliance on such opinion is highly problematic for the following reasons:
- a) There is no information regarding the kind of exact questions or repeated questions posed to these workers
 - b) While the sample size as stated in the introductory portion was of hundred or more, the statements relied on in the report to demonstrate the problem is not more than ten to fifteen.
 - c) Most of the time the interviewed workers were not the present employees but the one who have left employment.¹³ If a person is personally dissatisfied at the workplace for several other reasons and has left the workplace, the credibility of the opinion given by such person is not beyond doubt. It is normal in an organisation where the existing employees will have to cite reasons, which are actually not correct to justify their resignation before their guardians, parents, friends and relatives. The bad press, which the organisation gets due to such reasons, cannot be considered as a having a good probative value. Such issues and problems are matters of facts are unavoidable for every organisation in the world and textile mills are no different.
 - v). **CENTER FOR RESEARCH ON MULTINATIONAL CORPORATIONS AND INDIA COMMITTEE OF THE NETHERLANDS, *MAID IN INDIA [ONLINE] APRIL 2012***
- 2.18 The report is a follow-up report to the “Captured by Cotton” report issued in May 2011 and tries to give an update of labour conditions in the textile and garment industry of Tamil Nadu.
- 2.19 Similar to the previous report, this report is also based on a very small sample of 180 workers out of nearly 20000 workers working in these mills. Thus, the findings cannot be considered to reflect the entire workforce. Chapter 2 of the report again discusses labour practices in Tamil Nadu textile and garment industry. Chapter 3 analyses the initiatives taken to address the labour right concerns. Chapter 4 and Chapter 5 of the report provide the concluding remarks and recommendations.
- 2.20 Chapter 2 in sum and substance is similar to the previous report. The finding reported therein seems to have been reiterated again. Submission made above by us in response to “captured by cotton” report of May 2011 may be relied upon.

¹³ Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, May 2011, p.23

- 2.21 As regards the current labour practices at 4 selected vertically integrated manufacturers, study of Bannari Amman Group suggests that there was no child labour practice in the Group, women workers were allowed to go out once in 15 days or whenever their parents visited them. Workers stayed in hostel as well as outside factory premises. As regards payment, it has now been reported that workers working in the company would get the lump sum amount so saved till the time they worked there, indicating that their money is not withheld. As regards working hours, it is reported that workers normally work for 48 hours a week, with overtime being only on voluntary basis, with double wages paid for worked hours. It may further be submitted that textile units under Bannari employ both men and women, with separate hostel facilities for men and women. There is no such preference given to women for employment. Availability of women more than men has been one of the causes due to which the mills resorted to women employment. With effect from 1st April 2012, Bannari has done away with its previous recruitment process. Employees now have freedom to leave at any point of time, without any cap nor there is a system of lumpsum payment after completion of work tenure.
- 2.22 Bannari has further taken following initiatives for empowering the workers in the mills and also for betterment of community:
- a) Education facility to women employees and those who completed Degree courses they were appointed as supervisory staff in mills.
 - b) Computer Education to women employees.
 - c) Self-improvement motivation classes by external speakers at regular intervals.
 - d) Free medical assistance and regular check up by Doctors
 - e) 8 schools near the mill were adopted, with teachers recruited and paid salary from mills in case any shortage of teachers in the said schools.
- 2.23 In case of Eastman Spinning, it has been reported that it does not use the lumpsum system and all the dues of workers have been settled. It has also been reported that freedom of movement has improved, usage of mobile phones is allowed, no child labour has been reported. Similar to Bannari Group, overtime is voluntary and workers are paid double wages.
- 2.24 It has also been reported that SSM India does not employ anyone based on “lumpsum” scheme. Workers are not forced to work overtime, which is purely on voluntary basis. Workers are free to use mobile phones, free to go home as and when they desire,

improved hygiene is provided and parents are free to meet their daughters whenever they desire. There is no control over the individual workers' or her families' activities.

2.25 There may be certain reasonable restrictions on the timings for going out and coming into the hostel or place of stay due to security reasons. There are no other restrictions on the workers' movement.

2.26 The report also suggests that recruits are mostly from most marginalized and least empowered communities, in poverty stricken districts of the state. It is further reported that workers below the age of 16 years were found to be working.

2.27 At the outset it is submitted, irrespective of incidences in past, there is no existing practice of employing workers below the age of 16 years. No person below the age of 16 years is currently employed in these mills. Further, while employing workers, there is no preference for selection from a particular community nor is it legally permitted. Even otherwise, wherein workers from a particular marginalized community are hired, it gives them employment and opportunity to make a living, under much better conditions than they are otherwise accustomed to. This cannot be termed as exploitation but should be seen as an opportunity for empowerment, given the socio-economic situation prevailing in that community.

vi). CENTER FOR RESEARCH ON MULTINATIONAL CORPORATIONS AND INDIA COMMITTEE OF THE NETHERLANDS. *STILL 'CAPTURED BY COTTON'? UPDATE ON EXPLOITATION OF WOMEN WORKERS IN THE GARMENT INDUSTRY IN TAMIL NADU, SOUTH INDIA [ONLINE] MARCH 2012*

2.28 This report is basically an extension to the May 2011 report of Center for Research on Multinational Corporations and India Committee of the Netherlands. The present report is a follow-up report, highlighting the changes that have taken place since the publishing of the last report.

2.29 Before going in to the details of the report, it is important to note that SOMO and ICN did not respond when questions were posed to them regarding their reports.¹⁴ It is important for these institutions to stand by their reports by providing adequate responses to the questions posed by the stakeholders and general public.

2.30 It has been noted in the report that most of the labour issues have seen improvement. As we have submitted earlier, there is no scheme in existence called as 'Sumangali scheme',

¹⁴ See NO response from ECCJ / SOMO / ICN regarding the facts published in this blog, available at <http://alexvillipin.blogspot.in/2011/05/no-response-from-eccj-somo-icn.html>

which has been created out of nothing since there is no legal recognition of such scheme. The report assumes the existence of such a scheme based on some random sampling exercise of some Non-Governmental Organizations, who perceive opportunity for employment and empowerment as a form of exploitation.

- 2.31 Even otherwise, the report primarily focuses on problem of bonded labour and not child labour. As regards the issue of child labour, it has been specifically noted that one of the company is hiring workers, who are over the age of 18, which is the standard practice among other textile mills also. None of the textile mills engage workers, who are below the age of 18. People, mostly women, between the age of 15 and 18 are taken as apprentices and are imparted skills and remunerated as per norms prescribed by the state government.
- 2.32 If child labour or bonded labour was indeed existent in such a wide scale as has been portrayed by this report and other relied upon reports, then suitable action would have been taken by the concerned authorities. Since no investigation or enquiry has been made against the existing practices of textile mills in Tamil Nadu, it cannot be said that there exists child labour or labour exploitation.
- 2.33 The report further suggests that at the four investigated manufacturers, girls younger than 16 years of age were found to be working. However, the report does not suggest whether such women were working as workers or as apprentices, who were being imparted training. No supporting evidence has been annexed to substantiate the claim.
- 2.34 Other claims remain the same as has been made in the previous report issued in May 2011. No specific rebuttal is provided again for the sake of brevity.

vii). CENTER FOR RESEARCH ON MULTINATIONAL CORPORATION OFFICIAL INTERVIEW WITH USDOL OFFICIAL. FEBRUARY 2012 – NOT AVAILABLE

- 2.35 The information is not made available to us and therefore it is not possible for us to comment on the content of the source. US DOL is requested not to rely on the same as it under an obligation as per the TVPRA to rely on information, which is publicly available.

viii). FAIR LABOR ASSOCIATION. UNDERSTANDING THE CHARACTERISTICS OF THE SUMANGALI SCHEME IN TAMIL NADU TEXTILE & GARMENT INDUSTRY AND SUPPLY CHAIN LINKAGES MAY 2012

- 2.36 The research reports on working conditions in the textile mills and garment manufacturing units in Tamil Nadu, which are based on desk research, interviews with few industry associations, sample workers, their parents and relatives and meetings with

number of brands and retailers. It focuses on the “Sumangali scheme” and tries to show it as an illegal policy.

- 2.37 Report has criticized the scheme as being violative of labour and legal rights of workers such as restriction in movement of workers, high deductions from the monthly wages, not providing social security benefits, long working hours and very limited contact with outside world.
- 2.38 As regards the restrictions in movement of workers, page 14 of the report gives the reasoning. It is for the safety of the women workers that they are controlled by the mills. There have been situations wherein women take rooms outside the factory premises, befriended by strangers and left alone afterwards forcing them to return back to factory. In some cases, women were pregnant and were left with no option but to come back to hostel. Thus, in order to avoid such problems, certain amount of restrictions is necessitated. This cannot be termed as ‘forced labour’.
- 2.39 Page 15 of the report also suggests that it is not the textile units that entice women and draw them into the factories. It is in fact the socio-economic situation prevailing in families of such women, which makes them join the factories. This may be corroborated from page 17 of the report, wherein it is stated that more than 75% workers joined companies through their relatives or friends.
- 2.40 The report regarding maltreatment of women workers is not based on direct interviews but based on reports of other NGOs, who have not corroborated this fact. Though there may be one or more situations, wherein women were not able to cope up with job pressure or may dislike work, such occurrences may happen anywhere and is not endemic to textile mills of South India. Further there is no compulsion on them to continue the job. Amount due till the time woman works is paid upon leaving the job.
- 2.41 As regards the payment of wages, it has been stated in page 18 of the report that they have an option of receiving wages either on monthly or weekly basis, which was normally paid to the parents. Workers also confirmed that deductions for PF and ESI have been made.

ix). GLOBAL MARCH AGAINST CHILD LABOR OFFICIAL INTERVIEW WITH USDOL OFFICIAL FEBRUARY 2012 – NOT AVAILABLE

- 2.42 The information is not made available to us and therefore it is not possible for us to comment on the content of the source. US DOL is requested not to rely on the same as it under an obligation as per the TVPRA to rely on information, which is publicly available.

x). **MEHTA, SHRAMANAGANGULY. “GAP, WALMART, C&A, H&M WARN THEIR INDIAN SUPPLIERS AGAINST TEXTILE MILLS THAT INVOLVE CHILD & BONDED LABOUR: THE ECONOMIC TIMES [ONLINE] AHMEDABAD, NOVEMBER 16, 2011**

2.43 The news report has picked up the “Sumangali scheme” and has tried to give a general overview of the supposed scheme, which is being perceived as an exploitative scheme. The report highlights the apprehensiveness of major multinational corporations in using Indian textiles, purportedly manufactured using bonded labour. The report does not even talk about child labour. Allegations made in the report are baseless and without any supporting evidence and are based on research by a local NGO.

2.44 However, the scheme also presents the textile mill owners’ point of view and gives excerpts from the interview held with representatives of South India Mills Association, Confederation of Indian Textile Industry, Shiva Textiles among others, who are of the common view that the so-called Sumangali Scheme does not exist and also deny the fact that workers are subjected to human rights violation. All the industry associations including SIMA, Tirupur Exporters Association, etc. were vigilant about the women employment system from the very beginning. Legally, no textile mills can follow ‘sumangali scheme’.¹⁵

2.45 As regards the allegation in various reports that women workers are subjected to confinement with very less movement outside, Mr. Arumugam of Shiva Textiles makes a valid point that unlike western countries, women in India are still vulnerable to harassment outside and as a result, when women work with a mill or a company, onus is on the company to take care of them. Thus, certain restriction and regulation is necessary for the wellbeing of women.¹⁶

2.46 The news report also suggests that parents of the women workers are encouraged to collect the salaries every month.

2.47 Thus, the news report provides just an overview of the situation, without going into the merits and demerits of the case. Reliance on such a report to say that there exists child labour in Indian textile industry is a pretty naïve thought.

xi). **NARAYANASWAMY,K AND M.SACHITANANDAM. A STUDY TO UNDERSTAND THE SITUATION OF ARUNTHATHIYARS GIRLS EMPLOYED UNDER THE “SUMANGALITHITTAM”SCHEME IN ERODE, COIMBATORE, TIRUPUR,**

¹⁵ Press Report on employing women under so called ‘Sumangali Scheme’ in the textile industry in Tamil Nadu – submission of facts by textile industry’, Letter to Ministry of Textiles, dated 26 November, 2011

¹⁶ Mr. Arumugam states -“ you cannot permit the employees to leave the dormitories at 1 am just because western world perceives this as violation of human rights.”

**VIRUTHUNAGAR AND DINDIGUL DISTRICTS OF TAMIL NADU, INDIA [ONLINE]
2010**

- 2.48 The study focuses on a particular community (Arunthathiyars) in Tamil Nadu and tries to ascertain the impact of working under the “sumangali scheme” on young Arunthathiyars girls. It also seeks to assess the factors which led the parents to send their daughters to work in mills, ascertain existence of violations in labour laws for the prohibition of SumangaliThittam scheme and evolve recommendations to prevent, rescue and protect Arunthathiyar girls under the Sumangali scheme.
- 2.49 Firstly, only 250 women out of a total of about 38461¹⁷ unmarried women – representing only 0.65% of total women working were surveyed. Such a small sample hardly amounts to anything, given the large number of women working in the mills.
- 2.50 The report gives the following pull and push factors¹⁸, which made women to work in mills:

Push Factors	Pull factors
Poverty	Marriage expenditure
Debt	Decent job
High rate of interest	Safety atmosphere
Meet family expenditure	Construction of house
Parent's irregular employment	Lumpsum amount
	Independent life

- 2.51 The report suggests that most of the women quoted poverty and meeting family expenditure as the main “push” factors and care of marriage expenditure, safety atmosphere and lumpsum amount as the major pull factors, attracting the women to join the workforce. All the factors above were not created by the textile mills, but were intrinsic to the community, which was the primary reason for women to join the mills. As can be perused from page 55 of the report, of the sampled workers, only 47% of the women were employed through agents or villagers. Also, at page 45 of the report, it has been stated that the large size of an average nuclear family of the community was an unavoidable factor pushing a child to enter the textile mills. Thus, to say that textile mills connived to exploit women is a false and baseless conclusion made by the Report.

¹⁷ Report by Centre for Social Research Coimbatore &SathyamangalamPg 21

¹⁸ Report by Centre for Social Research Coimbatore &SathyamangalamPg 55

- 2.52 Report also mentions that Arunthathiyar community forms the lowest rung of social ladder with very pathetic socio-economic conditions. It has been explicitly stated that adolescent girls of the community with high hopes, find interest in making money¹⁹. Thus, the scheme adopted by the textile mills needs to be viewed as a beneficiary scheme rather than as an exploitative scheme.
- 2.53 At page 30 of the report, it has been stated that (a) researchers could not find identify any victim of sexual harassment directly, but have still made stray remarks regarding the same; (b) not all girls were staying in hostels and there were girls who commuted via factory van from their homes to factories – thereby rebutting claims in other reports that women workers were confined to hostels and treated as bonded labours; (c)there were women who worked under the one year scheme.
- 2.54 At pages 36-37 of the report, illogical comparisons have been made, which have no relevance to the issue at hand. For example, presence or absence of crèches in factories is of no relevance in deciding the effectiveness of the ‘Sumangali scheme’. Similarly, conclusion that such a scheme has led to discontinuance of giving gifts during festive seasons is of no consequence. Another interesting conclusion in the report states that before the scheme came about, there were hardly any complaints of physical or sexual harassment since age group of workers ranged from 18 to 60 years and thus environment inside the factory was not conducive for any violation of human rights. It is submitted that for exploitation, age is no bar. Thus, such provocative statements hold no value and need to be ignored.
- 2.55 Further totally false and incorrect findings have been recorded that there have been complaints of suicides inside the hostel and there have been deaths with causes unknown. If situation is indeed so grim, researchers should have called police to investigate the matter, which they did not do. No evidence has been attached to prove existence of such events. Statements such as these clearly show the mala-fide intention of the researchers to malign the textile mills, which are empowering the otherwise-impooverished community.
- 2.56 Contrary to the conclusions drawn in other news reports and research reports, page 64 of this report suggests that lump sum amount was not fixed to only Rs. 30000, but was infact in many cases more than 30000 and in some cases Rs. 50000 also. Nearly 54 of the sampled workers agreed for lump sum amount of more than Rs. 30000. It has also been stated that workers were paid on daily basis also – a fact denied in other reports relied upon by USDOL.

¹⁹ Report by Centre for Social Research Coimbatore &Sathyamangalam p. 18

2.57 35%²⁰ of the sampled workers stayed outside hostels, which has also been denied by reports relied upon by USDOL.

2.58 Furthermore, out of 118 sampled workers who had completed their tenures, 89% of the lumpsum issues were settled, which shows that these are only stray situations, wherein workers may have felt discomfort. This should not be taken as a reason to paint all the mills with the same brush and term all of them as exploitative.

2.59 Given the tenor of the findings made in the report, it cannot be said that the findings are objective in nature. Entire finding is skewed against the textile mills and is based on a very miniscule sample. Therefore, reliability on such reports, which are very subjective should be placed very carefully.

xii). OUTLOOK INDIA.COM WOUND ON A SPINDLE: WILL THE NEW LAW HELP THE GIRLS AT TIRUPUR’S GARMENT SWEATSHOPS? [ONLINE] JUNE 23, 2008

2.60 The news report commences the article on the wrong and preposterous assumption that there exists an exploitative scheme called “Sumangali scheme”, which gives out money for dowry after 3-5 years of work by unmarried women. The article nowhere substantiates its arguments.

2.61 The article next talks about efforts being taken by Tamil Nadu state government to amend the existing labour law to reduce the assumed exploitation of apprentices working in the textile mills. It may be mentioned that the existing laws are yet to be amended. Further, the article nowhere states that textile mills are violating any of the existing laws.

2.62 The Next part of the article mentions that efforts were taken by them to visit the factory premises, which were declined. Thus, the article does not contain an independent assessment of existing situation in textile mills. Instead it relies entirely upon unsubstantiated report and hearsay evidences of few NGOs that try to paint all the textile mills of state with same brush with negative findings based on a sample survey of few mills.

xiii). THE HINDU. SUMANGALI SCHEME: RELIEF ORDERED [ONLINE] OCTOBER 7, 2009

2.63 The newspaper report with its socialist view-point picks up a stray case of a worker who unfortunately loses an arm and as a result, is incapacitated for doing work ever again. The news-report also mentions that her case was taken up and compensation due was provided to her. It is pertinent to mention that one off incidents such as the above one

²⁰ Report by Centre for Social Research Coimbatore & Sathyamangalam, p. 65

may happen in any industry in any part of the world. This alone cannot be considered as a factor to brand Indian textile industry as being labor exploitative.

2.64 Veracity of the news report is seriously doubted since it says that the so-called “Sumangali Scheme” was introduced by the state government, when infact such a supposed scheme is not sponsored by any government, organization or association. The report has assumed the scheme to be in existence, even without verifying whether such a scheme exists or not.

2.65 The report also makes a generalized statement that such an incident as stated above is just a “tip of the ice-berg”. Merely because 37000 girls and women are working in about 913 mills does not imply that each and every worker would be subject to exploitation. The report contains mere assumptions and cannot be relied upon.

xiv). VENKATESH, M.R. “TEXTILE MILLS TAKE GIRLS FOR A RIDE”. DECCAN HERALD. [ONLINE] CHENNAI, OCTOBER 10,2010

2.66 This news report like all other news reports bases its arguments on the assumption that there exists a scheme called “Sumangali scheme”. The news-report is full of distorted facts provided by some of the NGOs that textile schemes lure illiterate girls to help them save money for their Dowry. Such a preposterous claim remains unsubstantiated and infact baselessly affects the reputation of textile mills, who seek to empower the illiterate women by providing them skills and a decent social life by giving them work and payment in return, which otherwise would not have been possible for such women. The textile mills infact give such women a sense of hope and aspirations to lead a better life.

2.67 The report bases its allegation on a story of a woman worker, who felt exploited in the mills. It may be submitted that such a thought may arise in anyone’s mind, irrespective of where he/she may be working. There may be or infact are situations wherein workers may not like the working conditions and are not able to fully appreciate the benefits they may derive due to their short term thinking. Hence, a feeling of dissatisfaction may creep up in their minds. The story narrated in the news article is an example of this situation.

2.68 Based on false information provided by some NGOs, article without verifying the fact has stated that such a “scheme” used by textile mill promotes dowry. This allegation is an utter false hood and is denied.

2.69 Individual stray cases of mal-treatment have been blown out of proportion to suggest that every girl working in the mill is facing the same problem. The fact that labour department officials and representatives of textile mills conducted public hearings and helped in

fixing compensation for the affected girls clearly suggesting that there exists an effective redressal mechanism to solve the problems of workers.

xv). VERITE, INC. HELP WANTED: HIRING, HUMAN TRAFFICKING, AND MODERN DAY SLAVERY IN THE GLOBAL ECONOMY 2010

- 2.70 The report focuses on vulnerabilities to forced labour faced by migrant workers around the world. Verite's research on labor brokering and hiring traps in Tirupur forms one of the parts of its research. As regards the issue of sumangali scheme, the report is in three parts – overview of the problem, interview with a labour broker and case study of a worker.
- 2.71 While the first part only gives an overview of how recruitments work, it does not even touch upon existence of child labour. The report defines 'Sumangali system' as a recruitment process, wherein adolescent girl workers from rural and impoverished interior are recruited for a period of three years and bulk of their salaries are withheld until the contract is fulfilled. It is submitted that the report wrongly perceives such a recruitment process as a negative process, which seeks to exploit women. There is no substantiation of the fact that workers are trapped once they are recruited. Further there is no truth in the finding that movements of workers are largely confined and monitored. In view of the fact that women workers are vulnerable outside, their safety becomes utmost important. Hence, little restriction in movement (like late hours) becomes necessary.
- 2.72 Even the interviews with a labour broker of women workers and a women girl do not mention child labour. While interview with broker suggests that everyone gets a similar treatment and so-called sumangali workers are not given any special treatment. Observation that women workers are not paid regularly is incorrect since payments are made on accrual basis in cash or via bank which can be encashed from ATMs. Similarly the case study of a woman worker can be atmost be referred to as a stray case. There may be situations, where a worker may not have been able to cope up with the work or may have disliked the work and hence fled home. This does not mean that all the women working in Textile mills are being ill-treated.
- 2.73 Finding that girls aged 14 to 17 are recruited far from home for a period of 3 years is not actually work but apprenticeship, which is a legally permissible form of imparting training to people below the age of 18. Rules and guidelines prescribed by the government are strictly adhered to. Hence, such apprenticeship cannot be compared to work, as such.

xvi). UNC OFFICIAL, INTERVIEW WITH USDOL OFFICIAL

2.74 The information is not made available to us and therefore it is not possible for us to comment on the content of the source. US DOL is requested not to rely on the same as it under an obligation as per the TVPRA to rely on information which is publicly available.

E. DOCUMENTS IN THE BIBLIOGRAPHY COLLECTIVELY ALSO DO NOT SHOW SIGNIFICANT INCIDENCE OF CHILD LABOUR

2.75 While individual reports relied upon by USDOL do not report significant incidence of child labour, these reports collectively as a whole also do not show any significant incidence of child labour as also forced labour. In terms of Procedural Guidelines for the Development and Maintenance of the List of Goods From Countries Produced by Child Labor or Forced Labor Pursuant to the Trafficking Victims Protection Reauthorization Act of 2005, the USDOL Office is required to consider and weigh several factors, which include:

- a) Nature of information: To determine whether the information gathered relating to child labor or forced labor from research, public submissions or other sources are relative and probative and meet the definitions of child labor or forced labor.
- b) Date of information: To determine whether the information provided is no more than 7 years old at the time of receipt.
- c) Source of information: To determine relevancy of the information with respect to methodology adopted, prior publications, degree of familiarity with international labor standards and reputation for accuracy and objectivity.
- d) Extent of corroboration by other sources
- e) Whether the information about the use of child labor or forced labor relates to single company or facility and/or whether it indicates isolated incident of child or forced labor

2.76 The procedures itself require that atleast the above criteria be examined, before relying upon the information provided. As can be perused from **Annexure 1** providing a chart covering all 5 parameters indicated above for all the relied upon documents, none of the source provides any relevant or probative information, which can be relied upon. The sources either do not meet the international definition of child/ forced labor or such information is not at all ascertainable due to general report on the topic. As regards the date of information, it is submitted that all the sources were published after 2005.

2.77 Furthermore, the source of information in all the relied upon reports of USDOL are irrelevant and cannot be taken into account for the following reasons:

- a) **Methodology:** In most of the cases, the methodology adopted is not mentioned and hence it is not possible to comment upon the same. In some other reports, methodology included random and sample interviews with ex-workers, few present workers, which in comparison to strong workforce of about 30,000 workers is highly inadequate. All the reports, which have relied upon this methodology, suffer from this grave defect.
- b) **Prior publication:** Most of the reports have been published for the first time and as a result, placing too much reliance on them is inappropriate, since their veracity and accuracy of reporting are not confirmed.
- c) **Degree of familiarity with international standards:** While all the news reports relied upon by USDOL do not even try to examine the international standards involved, other published reports also cannot be considered to be familiar with international standards involved. Even though such reports state the international provisions involved, yet at the same time fail to consider the labour provisions prevailing in India. Thus, without considering the legal setup existing in the country, such reports have tried to apply international conventions, many of which have not been ratified by India. Situation existing in India has to be considered solely with reference to laws of the land and nothing else. Hence, source of information is not reliable.
- d) **Reputation for accuracy and objectivity:** Most of the reports rely upon some motivated or highly skewed reports of NGOs or organizations, which are committed to bring the textile industry down. Analysis of such reports will not serve any purpose as their examination will not be objective and will highlight only the problems with the entire set-up.
- e) **Indication of significant incidence of child/forced labor:** 5 of the relied upon reports base their examination on few hundred samples out of about 30000 workforce and that too from only one state. Thus, such a small selective sample cannot be considered to be representative for entire textile industry of the country. It is submitted that the sample of as small as 1% or even less of total workforce cannot be taken to paint the entire country with same brush. Other reports are either general in nature, which have given just an overview of the situation existing in a particular region or they are simply news reports, which highlight an isolated incident of child or forced labour in India.

2.78 US DOL has mainly cited information regarding the condition of women apprentices in thread/yarn industry. **Annexure 2** to this submission provides the relevant information

regarding the condition of such women apprentices. It can be seen that the problem of child labour is insignificant if not completely eliminated in this industry.

- 2.79 Thus, for all the reasons stated above, the reports considered by USDOL individually as well as collectively, do not show any significant indications of child or forced labour in India.

III. INITIATIVES TAKEN BY INDIAN THREAD/YARN INDUSTRY

- 3.1 Recognizing that governmental efforts need to be supplemented by voluntary commitment and efforts of the industry to combat child labour, the Indian industry especially Textile industry has taken a number of steps

F. EMPLOYMENT SYSTEM IN THE TEXTILE MILLS, SOUTHERN INDIA MILLS ASSOCIATION (SIMA), COIMBATORE – AN INTRODUCTION²¹

- 3.2 Consequent to the delicensing policy announced by the central government during 1991 and the Technology Upgradation fund Scheme during 1999, the highly labour-intensive textile industry in Tamil Nadu (which accounts for 1/3rd of textile business in the country) started facing shortage of labour due to mushroom growth of industries. Therefore, the textile mills resorted to recruiting the workers from distance places by providing transport facilities. Even with this arrangement textile mills was unable to secure the required strength to run its operations. As a result, the textile mills started recruiting the unemployed young women from different districts. In order to ensure safety and security of the women employees, the mills had to provide dormitory and boarding facilities to such employees as per the guidelines recommended by the Madras High Court to oversee the functioning of the system. Moreover, the State government also fixed a minimum wage for the Textile Apprentices, which is the highest when compared to any other state in the country (currently a new apprentice in Tamil Nadu is eligible to get Rs. 126.50/- as the rate of wage²² and Rs. 96.98²³/- as Dearness Allowance (DA)/per day, the DA is revised on 1st day of every April (with effect upto 31st March 2013).

- 3.3 Also, considering the nature of labour supply in the industries in India, workmen are classified under several heads. Permanent workers is only one such classification. The Model Standing Orders Applicable to Workmen as issued under the Tamil Nadu

²¹ See letter dated November 26, 2011, Reply to Undersecretary Ministry of Textiles, Government of India

²² G.O.(2D) No.34 Labour and Employment (J1), dated 31.06.2012 published in the Tamil Nadu Government Gazette dated 10.10.2012

²³ G.O.(2D) No.34 Labour and Employment (J1), dated 31.06.2012 published in the Tamil Nadu Government Gazette dated 10.10.2012

Employment (Standing Orders) Rules, 1947 provides for the classification of workers as below:

1. Classification of workmen - Workmen shall be classified as follows, namely:-

(1) Permanent; (2) Probationers; (3) Temporary; (4) Badli; (5) Casual (6) Seasonal; and (7) Apprentices

- 3.4 The restriction for employment of women during night hours between 10pm to 6 am was lifted since 2001. The textile mill managements started employing women in all the three shifts. As there are many departments in the process of spinning mills Viz. blow room, carding, drawing, comber, simplex, spinning and post-spinning operations, these women workers are being recruited as apprentices for a period of Employment Standing Order Act. However, the textile mill managements have complied with labour laws in providing statutory benefits like ESI, PF, National & Festival holidays, and leave with wages as per the various labour legislations.
- 3.5 However, the employment scheme came under criticism from NGOs as they came out with reports regarding labour violations in these mills. The same reports are largely relied on by the US DOL in their finding. Criticism by NGOs covered following points:
- a) Workers remaining in the hostel is understood as a restriction to the freedom of movement
 - b) Workers are only recruited on temporary basis and are not made permanent on completion of the period of apprenticeship
 - c) Workers are not being provided benefits like ESI, PF, holidays etc. under several labour welfare legislation.
 - d) Workers are subjected to sexual harassment at work place
 - e) Denial of lumpsum compensation by certain textile mills managements on completion of three years of service to the workers as promised
 - f) Extraction of more work without providing holidays and workers are compelled to work more than eight hours a day.
- 3.6 When the system was subjected to criticism, the Government of Tamil Nadu constituted a Monitoring Committee comprising of District Collector, Deputy Chief Inspector of Factories, Deputy Commissioner of Labour, district Revenue Officers and Officials of Social Welfare Department to inspect and take appropriate action. However, this has been challenged by one of the trade unions in the High Court of Madras and the Court vide its interim order dated 3.10.2007 considered the system, *per-se*, illegal amounting to bonded labour. The Court then reconstituted the Committee consisting of the Judicial Officer, Women NGO, District Revenue Officer, District Commissioner of Labour, Deputy

Inspector of Factories in all the 17 districts of Tamil Nadu and directed them to file its report to the Registrar of High Court of Madras.

3.7 Accordingly, the Committees had submitted their report to the Registrar of Madras High Court. These committees have mainly covered the following issues:

- a) Prescription of Minimum Wage Rate
- b) Reduce the period of Apprenticeship from the existing level of three years

3.8 Most importantly, committee did not find fault with the system as exploitation and against the interest of women employee. This single biggest fact is ignored by the US DOL. It is pertinent to note that in this exercise not even a single complaint by any woman employee was highlighted.

Government of Tamil Nadu have prescribed Minimum Wages for the textile apprentices at Rs. Rs.195.79 , which has been further increased by Govt of Tamil Nadu vide The Government of Tamil Nadu vide its G.O.(2D) No.34 Labour and Employment (J1), dated 31.06.2012 published in the Tamil Nadu Government Gazette dated 10.10.2012 to Rs. 223.48 per day. By Judgment dated 11.12.2009, Madras High Court finally disposed off the writ petitions, stating that fixing of minimum wages at Rs.110/- per day for the Apprentice by the impugned notification dated 7th November, 2008 is quite timely and fully justified. Meanwhile, SIMA is constantly striving to streamline the entire system and has issued 'Recruitment Guidelines and Code of Discipline for Women Employment in textile Mills'. The scheme has benefited rural women folks to great extent

3.9 All the industry associations including SIMA, Tirupur Exporters Association, etc., were vigilant about the women employment system from the very beginning.. There is misconception and misreporting regarding the so called 'Sumangali scheme'. It is required to be noted that the nomenclature is not endorsed by the industry and it is only based on the understanding developed by some NGOs and Trade Unions.

3.10 Even if 'Sumangali scheme' existed in Tamil Nadu as some point, it is not in existence as of now. None of SIMA members is presently endorsing such scheme. Textile Mills are paying much more than the minimum wage. SIMA has been educating the textile mills on the Do's and Dont's while employing women workers and also insisted upon the textile mills to follow the various labour legislations. SIMA has come out with "Recruitment Guidelines and Code of Disciplines for Women Employment in textile Industry". Besides SIMA also conducts Social Audits Certification in co-ordination with M/s. TUV Rheinland. The State Women Commission, trade union leaders and the labour

department have highly appreciated the ‘Recruitment Guidelines and Code of Discipline’ designed by SIMA.

G. BENEFITS OF THE APPRENTICE SCHEME

3.11 The apprentice scheme in the textile mills is beneficial to workers, industry and society. This was witnessed by the association and as acknowledged in several news reports and survey are reported below:

- a) The scheme created a very good impact on the social upliftment of the rural villages across the State due to improvement in the health and economic conditions of young women folks.
- b) The scheme facilitates strengthening of Self Help Groups being promoted by the Government of Tamil Nadu and paved way for the development of cottage and small industries in the rural areas.
- c) The scheme has empowered the women workers to become more confident and self- sufficient.
- d) The scheme has helped the women workers who were getting married at the early age of 15 or 16. Due to the scheme, the marriage time has been shifted to 23 or 24 years.
- e) Because of poor educational background, the young women in the society have been placed in such a way that they are married to elders. This system prevented such kind of marriages as confidence level of these young women and the awareness has improved.
- f) The most important benefit was achieved in terms of health conditions amongst the women workers. The rural poor girls who are found to be anemic have shown improvement in hemoglobin levels.
- g) Also, to note that young women got the opportunity to pursue their dreams in education as textile mill management were fully supportive of higher education.

H. ASSOCIATION CIRCULAR NO. 91-G/2002 DATED 18.9.2002 AND NO. 44-A/2003 DATED 6.6.2003.

3.12 Hon’ble Supreme Court of India by its Order dated 26.4.2004 in W.P. (Crl) No. 173-177/1999, *MedhaKotwalLele & Others Vs. UOI & Others*²⁴, envisaged that the ‘Complaint Committee’ formed based on the Judgment in Vishakha’s Case²⁵ will be deemed to be an inquiry authority and the report of the Complaints Committee shall be deemed to be an inquiry report. The Association by its Circular No. 91-G/2002 dated September 18, 2002

²⁴ W.P. (Crl) No. 173-177/1999

²⁵ 1997 6 SCC 241

informed all the member mills the guidelines and norms prescribed by the Supreme Court in Vishakha's Case.²⁶

3.13 Circular No. 108/2005²⁷ of SIMA provides that a committee is required to be constituted following the prescribed guidelines to address the issue of sexual harassment at the workplace. The complaint committee must make an annual report to the government department concerned of the complaints and action taken by them. The employers and person in-charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

I. CODE OF CONDUCT FOR EMPLOYERS ON ELIMINATING CHILD LABOUR FROM SUPPLY CHAINS, EMPLOYERS FEDERATION OF SOUTHERN INDIA MILLS ASSOCIATION, CHENNAI

3.14 The code of conduct highlights the action to be undertaken by employers to abstain from employing children below 15 years of age and provides for guidelines for recruiting workers above the age of 15 but below 18 years. The code of conduct prohibits any employment of child below the age of 15 years and it requires release of workers below the age of 15. It requires mill owners to maintain proper documents and shall communicate their policy to suppliers and outsider.

3.15 It provides for health and safety standards which are required to be ensured at the mills for young workers between 15 to 18 years of age. It provides strict norms regarding the maximum working hours to which a young worker could be subject to. It provides that every mill owner is required to pay the wages which equals or exceed the minimum wage in the prevailing industry.

3.16 It further provides in detail the mechanism to ensure the implementation of the code of conduct as prescribed above. The monitoring cell will conduct periodic review to ensure compliance in these mills.

²⁶ Circular No. 91-G/2002, -Constitution of India, Articles 14, 15,19 and 21 – convention on the Elimination of All Forms of Discrimination against Women Arts. 11 and 22 to 24Protection of Human Rights Act, 1993 – Sexual harassment of working women in work places – Amounts to violation of fundamental rights of gender equality and right to life and property – One of the logical consequences of such sexual harassment is also the violation of victim's fundamental rights to carry on any profession or to carry out any occupation or trade or business – Victim is entitled to remedy under Article 32 of Constitution of India, September 18, 2002

²⁷ Circular No. 108/2005 – Social Welfare –Women welfare-prevention of Sexual harassment of Women employees at workplace – Formation of “Complaint Committee” – Reg., October 7, 2005

J. RECRUITMENT STANDARDS, CODE OF DISCIPLINE AND HOSTEL SYSTEM

- 3.17 The Recruitment Guidelines and Code of Discipline while engaging women employees in the hostel system are prescribed by SIMA.²⁸ It prescribes the recruitment age as 18 and above. In the case of adolescence at the age of 16 or 17 years, they must be employed as described in the Factories Act, 1948.

K. ONE DAY WORKSHOP ON CHILD LABOUR & HIRING GUIDELINES AT COIMBATORE

- 3.18 International Labour Organisation in collaboration with EFSI and SIMA organized a one day workshop on the 'Elimination of Child Labour and Hiring Guidelines' on 15 February 2011. Workshop was meant for employer organisation. Practical inputs were obtained from the mills for the elimination of child labour especially in the informal sector. 'Hiring Guidelines' were also table for soliciting the views of the participants and for further propagation.

L. APPROPRIATE BIBLIOGRAPHY

- 3.19 The below list specifically highlights the reports citing healthy environment and working conditions in textile mills which has not found any mention in the Bibliography of US DOL or in the report of NGOs.

i). CHIEF MINISTER STATEMENT, TAMIL NADU, 11 JUNE 2012

- 3.20 On the Occasion of Child Labour Eradication Day i.e. 12 June 2012, Chief Minister issued a statement stating that Governments primary objective is to provide every child with an opportunity to study, good health, to enjoy its childhood and to elevate every child as a respectable citizen. To eradicate child labour, Government of Tamil Nadu is providing children with free education, free food, free laptops and uniforms etc.
- 3.21 Chief Minister requested the parents to take a vow that they would not send their children who are below the age of 14 for work.

ii). WORKING GIRLS COME OUT TOPS, EXPRESS NEWS SERVICE, 21/5/2011

- 3.22 The news reports substantiate the claims regarding the assistance in education provided within the factory premises in the textile mills. 365 laborers out of 450 came out with flying colors in Class XII Examination Center. As high as 95% were scored in the examination by these laborers. The news report indicates that company has spent Rs. 12 million in providing education related assistance and facilities to its workers. The education was facilitated which was otherwise not possible for these workers coming from poor families. They recruit highly qualified teachers from coaching institutes to provide teaching facilities. Access to Extra-curricular activities like yoga, swimming,

²⁸ See the Recruitment Guidelines and Code of Discipline while engaging women employees in the Hostel System, SIMA

music and skating are also taught to them. Many girls who had worked in the mills a few years ago are now in different fields 'like banking nursing and teaching among others'. The report also notes the fact that the company only employs girls above 18.

iii). IT IS NOT ALL WORK AT KPR MILL, THE HINDU, MAY 21, 2011

3.23 Report highlights how a woman mill worker in KPR Mills was able to secure 1,058 marks in the exams and made her eligible for graduate studies in commerce. The news report indicates how KPR group where she worked felicitated her with education. News report notes the opinion of the woman worker that mill encourages continuation of studies after work hours. The report also notes that since 2006 about 7000 candidates working in the mill have completed school or college education. The mill is reported to have 30 teachers and has tie ups with tutorial colleges and has also tie-ups with three universities.

3.24 The classes are conducted every day after work hours and mill management provides part of the funds for studies and around 25% of the candidates continue to work in the mills even after higher studies.

iv). HERE THEY LEARN AS WELL AS EARN, INDIAN EXPRESS, 19TH SEPTEMBER, 2012

3.25 The news report specifically rebuts the reports published by the NGOs and trade unions citing the incidence of forced, child labour and 'sumangali scheme' resulting in the exploitation of poor workers which are primarily relied upon by the US DOL in their bibliography for their decision to include Cotton Thread/Yarn in their Bibliography.

3.26 The excerpts from the news report is produced herewith

“But, seeing is believing. Express visited the Premier Mills unit at Pulankinar where things were just contrary to what the trade unions and NGOs had been saying about the scheme. The scribe was taken around the lush green spacious mill complex where dormitory block with steel cots and beds have been provided in mega size rooms with ample ventilation. A multipurpose hall serves as a recreation for the inmates where TV sets have been installed. The mill offers typewriting, computer training tailoring classes for the girls to enhance their skills. Added to these, both Tamil Nadu Open Univeristy (TNOU) and Algappa University study centres offers courses for girls.”

3.27 The news report also records the appreciation of women workers in the scheme and how they receive sufficient wages plus other benefits for their work. Report also highlights the

fact that education facilities which were not accessible to girls from poor families in rural areas were made available on their employment as workers in the mills.

v). EMPOWERING WOMEN WORKERS IN TEXTILE MILLS, JANUARY 4, 2012

- 3.28 The article covered the details of the interactive session on “Empowerment of Women in Textile Mills” which was chaired by RohitRajendran, former Chairman of Young Indians, Coimbatore Chapter, as part of Coimbatore Vizha at Southern India Mills’ Association. The news report highlights the importance of textile industry for the purpose of women employment. It also notes the initiatives taken by the SIMA regarding issuance of circular to its members stating dos and don’ts of women employment in the mills.

vi). EARNINGS THEIR STRIPES, BUSINESS LINE (THE HINDU), JANUARY 18, 2008

- 3.29 A detailed article was published on the social transformation affected by the employment policies in these textile mills in Tamil Nadu. The opening sentence of the article aptly describes the reality as follows:

“Theirs are faces I won’t forget for a long time. Their smiles are special and so are the determination expressed by each pair of eyes without words or not too many words”

- 3.30 It notes the fact that women workers in these mills are offered opportunities for higher education and access to extra-curricular activities such as yoga classes, a plethora of games, and outings at regular intervals and swimming.
- 3.31 The Article specifically notes the change which was brought about in the life of one of the disadvantaged girl ‘Pashupati’. She was able to pursue III year BBA through the Tamil Nadu Open University and next on her list was an MBA degree.
- 3.32 The news report indeed acknowledges the instances where workers were not paid adequately and there were complaints from exploitation. However, such instances were promptly addressed whenever it came to the notice of the authorities and in one particular case which the NGOs have highlighted pertains to the sick unit in Palani which failed to provide remuneration in the form of lumpsum payment. Most important it notes the results of the extensive survey as against the sample surveys conducted by select organizations which found that ninety five per cent girls were happy.
- 3.33 The article further narrates several other such instances from the life of woman workers who were either able to sustain their families or were able to secure education opportunities for themselves and in turn a better life.

vii). WEAVING DREAMS INTO REALITY, WEDNESDAY, JANUARY 09, 2008

3.34 The report highlights the happiness in the villages which were covered by the “apprentice scheme” that employs young girls as apprentices. This news report like the previous one also highlights the importance of work for women in these industries and how they were able to make the most of their life by devoting around eight hours a day in these mills. Education and personal earnings for women workers acted as a huge motivation for woman from villages to join the textile mills noted this report.

viii). ‘A SUCCESSFUL SCHEME’: INTERVIEW WITH K. SELVARAJU, SECRETARY GENERAL, SIMA FRONTLINE, OCT 06-19, 2007

3.35 On being asked to explain the reports about labour violations and overall situation of women workers in these industries, K. Selvaraju, Secretary-General, Southern India Mills Association explains in details the labour situation in textile mills as reported in this report. He specifically points out that the word ‘Sumangali scheme’ should not be used as it has negative connotations. In reality the scheme is understood to have helped the society. Mill managements are spending on food and hostel facility and are charging very nominal rate from the workers for such services. Mills are asked to pay proportionately the amount to which workers are entitled in an event they were to leave the workplace. The association has also issued a list of dos and donts and is being asked not to use unethical means.

ix). WOMEN IN THE MILLS, EXPRESS TEXTILES BLUE BOOK, 2007

3.36 Dr. K. Selvaraju, Secretary General, SIMA writes in detail how women came about being recruited in the modern textile mills and about the condition of such women workers in the textile mills, management policies, and the prescribed standards for such units which are required to be followed by these units.

M. HOSTEL SYSTEM

3.37 The rules and regulations for hostel inmates prescribed by the mills are no different or stricter when compared to the hostel rules followed by any other neighbouring college or institute. It is required to be noted that the rules and regulations for girls hostels across the countries are always stringent as compared to boys hostel.

3.38 The rules prescribed by PSG College of Arts & Science Hostel in Coimbatore²⁹ are no different from the rules prescribed by the textile mills for their hostel inmates. Timing restrictions as part of the hostel rules are in fact necessary. It is hard to locate a hostel in India especially a girls hostel, wherein there are no timing restrictions. With regard to the

²⁹ See Rule and Regulations for Hostel Inmates, PSG College of Arts and Science Hostel, Coimbatore - 641014

timing restrictions for girls as mentioned in Rule 11 of the college, they are required to be present in the room by 6.p.m.

N. DISHA PROGRAM

3.39 Another major project undertaken by Industry is ‘Driving Industry towards Sustainable Human Capital Advanement’, better known as “DISHA”. It is a unique program in which Members would implement compliance systems to ensure that they are not profiting from grave labour abuses in their supply chains. The compliance system envisaged under DISHA includes the following:

3.40 Members give a commitment to comply with “CCC” – a code of conduct that includes specific child labour and forced labour standards.

- a) Mapping and risk assessment of the company’s supply chains, to identify locations and processes most likely to have child or forced labour.
- b) Creating awareness about standards, rights and responsibilities to stakeholders throughout the supply chain including employers, customers, suppliers, employees, trade unions, NGOs, civil society, etc.
- c) Monitoring or auditing to detect violations in complying with CCC, taking remedial action for violations found including putting in place appropriate system to avoid recurrence.
- d) Independent and transparent third-party monitoring and verification of program implementation.

3.41 The role and responsibility of several implementing agencies involved in this project are tabulated below:

Role	Responsibility	Entity
Program Management	Overall Leadership of the program; all executive decisions with approval of MOT	Apparel Export Promotion Council
Mentoring	Providing expert guidance	ILO
Accreditation	Endorsing the program for global Acceptability and recognition	FLA, BSCI, ETI
Audit	Factory Audit to verify Compliance to code	Audit Agencies
Monitoring	Reviewing audit reports and doing check audits to monitor and improve program	Implementation Agency

Facilitation	Training and capacity building of factories and auditors	Implementation Agency
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3.42 Major Objectives and Key Focus Areas of the program are:

- a) Identification of compliances issues from global trade perspective
- b) Development of the Common Compliance Code for the industry with global benchmark
- c) Develop guidelines and tool kit for its effective implementation
- d) Implement , manage and continuously improve the program
- e) Facilitate factory capacity building towards compliance
- f) Hand holding of the industry for continued compliance
- g) Design systems for assessment, monitoring and evaluation
- h) Development of a self regulatory mechanism for the industry
- i) Creating awareness and empowering manufacturing units/ factories to create systems for compliance for human, social environmental and economic stability
- j) Accreditation by international agencies to ensure global acceptance of the program
- k) To introduce supply chain transparency in apparel textile sector
- l) Environmental and safety related issues.
- m) Factory Audits
- n) Engagement with stakeholders for global endorsement
- o) Awareness and engagement programmes involving Brands, Civil Societies, Suppliers, Labour Unions etc.
- p) Factory capacity building and Training Resource Building
- q) Perform gap analysis and developing systems to plug those gaps

- 3.43 It may be mentioned that Ministry of Textiles, Government of India made presentation before USDOL on 15th February 2012 in Washington DC, wherein detailed presentation was made to show that Indian apparel export industry is not engaged in employing child labour and hence there was a need to exclude Embroidered Textile and Garments from the TVPRA List. It is further submitted that the submissions made before USDOL was highly appreciated by the officials present themselves.

IV. ROLE OF THE GOVERNMENT IN COMBATING CHILD LABOUR ISSUES

- 4.1 India is committed to abolition of child labour or forced labour in any form. Government of India has taken full responsibility to enforce the rights of children and the vulnerable sections of the society through a number of programs that provide basic services and social safety nets.

O. CONSTITUTION OF INDIA

- 4.2 It is necessary for a country to secure and nurture its children in order to achieve growth and prosperity and to build a nation. Thus, to assail the evil of child labour and protect the children of the nation, Constitution of India expressly conferred a fundamental right on the children under Article 24 thereof that any child below fourteen years of age cannot be employed to work in any factory or mine or engaged in any other hazardous employment. Thus, no factory (irrespective of industry) can employ any child.
- 4.3 Apart from the said fundamental right, the Directive Principles of the State Policy (Part IV of the Constitution) mandates that the State shall direct its policy towards securing the rights of children. Article 39 (e) and (f) inter alia provide that the State shall ensure that children are not abused and not forced by economic necessity to enter avocations unsuited to their age and strength and that children are given opportunity to develop in a healthy environment and are protected against exploitation. Article 41 of the Constitution further provides that the State within its economic capacity shall make effective provisions for securing the right to work and education amongst others. The Constitution further in Article 45 directs the State to provide free and compulsory education for all children till the age of 14 years. However, after the 86th Amendment to the Constitution in 2002, Article 21A made Right to Education a fundamental right and accordingly, Article 45 was also amended to the effect that the State shall provide early childhood care and education for all children until they complete six years

4.4 The National Policy of Child Labour declared in August, 1987, the policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner. The Action Plan under this policy is multi-pronged and mainly consists of:³⁰

- a) Legislative Action Plan
- b) Project based action in areas of high concentration of Child Labour
- c) Focus on general development programmes for the benefit of the families of Child Labour

P. LEGISLATIVE ACTION

4.5 Under the Legislative Action Plan a Child Labour (Prohibition & Regulation) Act, 1986 provides:

- a) Child Labour (Prohibition & Regulation) Act, 1986 prohibits employment of children below the age of 14 years in 18 occupations and 65 processes
- b) The Act regulates the condition of employment in all occupations and process not prohibited under the Act (Part III)
- c) As per Section 3 of the Child Labour (Prohibition & Regulation) Act, 1986 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. 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 government
- d) Any person who employs any child in contravention of the provisions of section 3 of the Act is liable for punishment 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 both
- e) The Central and the State Government enforce the provisions of the act in their Respective spheres.
- f) The cabinet has approved the amendments proposed by Ministry of Labour & Employment to Child Labour (Prohibition & Regulation), 1986 include the following:
- g) The Child Labour (Prohibition & Regulation) Act, be renamed as Child & Adolescents Labour (Prohibition) Act
- h) Employment of children below 14 years would be completely prohibited and the age of the prohibition would also be linked to the age under Right to free and Compulsory Education Act.

³⁰ Letter from Ministry of Labour & Employment, Government of India, New Delhi, DO No. S-27022/3/2008-CL, dated 18th October 2012

- i) Prohibition of working of children/Adolescent from 14 to 18 years in Mines Explosives and hazardous occupations set forth in the Factories Act, 1948
 - j) There should be no bar on children helping their families after school hours and in vacations, in fields, home based work (except commercial purpose). Parents and guardians of children would be punishable under the Act only if they permit engagement of their children for commercial purposes in contravention of this Act.
 - k) The punishment to the offender under the Act would be stricter and the offences under the Act would be cognizable
 - l) The overall responsibility for implementation of the act shall be vested with the District Magistrate and the monitoring and inspection is to be done by Labour Department with the appropriate Government
 - m) For rehabilitation of Child Labour Ministry of Labour & Employment would separately propose changes in the rehabilitation scheme of Child Labour in consultation with Ministry of Human Resource Development and Ministry of Women and Child Development.
- 4.6 This amendment will enable India to ratify the ILO Convention 138 as well as ILO Convention 182.
- 4.7 The Government of India has added two more occupations i.e. caring of elephants and working of children in the circus in to the list of hazardous occupations where of employment of children is prohibited. So as on date there are 18 occupations and 65 processes where the employment of children below the age of 14 is prohibited.
- 4.8 The issue of worst forms of child labour has already been addressed in India under the various Acts slavery, debit bondage and forced and compulsory labour which is other forms of bonded labour is banned through Bonded Labour System (Abolition) Act, 1976. Procuring or offering of a child for prosecution, for the production of pornography or for pornographic performances or procuring or offering of child for illicit activities, in particular for the production and trafficking of drugs has been banned under Indian Penal Code Immortal Trafficking Prevention Act, 1956 and the Narcotics Drug Psychotropic Substances Act, 1985. Though the use of child labour in the hazardous occupations is prohibited under Child Labour (Prohibition & Regulation) Act, 1986, the provision extends to the children below the age of 14 years.
- 4.9 Other Acts where children below the age of 14 years prohibited for entry into the employment are:
- a) Factories Act, 1948

- b) The Merchant Shipping Act, 1958
- c) The Motor Transport Act, 1961
- d) The Beedi and Cigar Workers Act, 1966
- e) The Minimum Wages Act, 1948
- f) Plantations Act, 1951
- g) Bonded Labour System (Abolition) Act 1976

4.10 Other enactments in relation to the child labour are as below

- a) The Juvenile Justice (Care and Protection of Children) Act, 2000
- b) The Right of Children to Free and Compulsory Education Act, 2009
- c) Mahatma Gandhi National Rural Employment Guarantee Act, 2005
- d) Commissions for Protection of Child Rights Act, 2005
- e) National Food Security Bill, 2011

4.11 Salient features of the significant statutes mentioned herein are discussed below.

i). FACTORIES ACT, 1948

4.12 Section 67 of the Factories Act, 1948 also prohibits employment of children in a factory. Section 67 of the Factories Act, 1948 reads as follows:

“67. Prohibition of employment of young children: - No child who has not completed his fourteenth year shall be required or allowed to work in any factory.”

4.13 A factory has been defined under Section 2 (m) of the Factories Act, 1948 as a premises wherein 10 or more workers are working and in any part of which a manufacturing process is being carried out with the aid of power (20 or more workers where manufacturing process was being carried out without the aid of power). Further a manufacturing process will mean any process for making, altering, repairing, ornamenting, finishing, packing, washing, cleaning etc with a view to its use, sale, transport, delivery or disposal. Reading the aforesaid definitions along with the prohibition under Section 67 of the Factories Act, 1948 would establish that all the garment units (manufacturers) as well as subcontractors would fall under the definition of a “Factory” wherein employment of child labour is completely prohibited. Section 92 of the Factories Act provides for penalty in case a child is employed in a factory which may include imprisonment up to two years or fine up to ` 100,000 or with both and in case the contravention is continued then a further fine of ` 1,000 per day.

ii). THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

4.14 Section 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000 also prescribes that whoever procures a child for the purposes of hazardous employment, keeps him in bondage and withholds his earnings or uses his earnings for his own use shall be punishable with imprisonment for a term up to 3 years and shall be liable to pay fine. The said Juvenile Justice (Care and Protection of Children) Act, 2000 makes forced or bonded child labour in hazardous industry, a punishable offense in India.

iii). BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

4.15 The Bonded Labour System (Abolition) Act, 1976 was enacted to provide for the abolition of bonded labour system with a view to prevent the economic and physical exploitation of the weaker sections of the population. Section 16 and 17 of the said Act inter alia provide that whoever compels any person to render any bonded labour or whoever advances any bonded debt shall be punishable with imprisonment for a term, which may extend to three years and also with fine, which may extend to two thousand rupees. Thus, by making perpetration of bonded labour a punishable offense, the Government of India has tried to eradicate the problem of bonded labour as well.

iv). THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT 2009

4.16 Recognising that education is a powerful tool in combating child labour, Government of India has expressly recognised “Right to Education” as a fundamental right by a Constitutional Amendment in 2002. The newly introduced Article 21A provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law determine. Though it took a few years, India enacted the Right of Children to Free and Compulsory Education Act 2009 (hereinafter referred to as ‘RTE Act’) that has come into effect from 1st April 2010. Section 3 of the RTE Act provides that every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education and he/she shall not have to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing such elementary education. The RTE Act also casts a duty upon the parents or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school (Section 10) and thus, the parents when granted an opportunity to provide free education to their children would be reluctant to take them out of school and force them to work due to paucity of income.

v). MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005

4.17 Further, in order to secure minimum employment to every household and thereby curb the menace of child labour, Government of India has also enacted Mahatma Gandhi

National Rural Employment Guarantee Act, 2005 which inter alia prescribes that the State Government shall provide a sum of Rs.100/- per day to every household in the notified rural area whose adult members volunteer to do unskilled manual labour for not less than 100 days in a financial year. Thus, by securing the minimum employment to a household, the State is trying to augment the family income and discourage them to send their children to work.

vi). COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

4.18 Apart from the above, India acceded to the Convention on the Rights of the Child (CRC) on 11th December 1992 which makes it incumbent upon Government of India to take all necessary steps to protect children's rights enumerated in the said Convention. Article 32 of the said convention provides that :

“32. (1) States Parties recognize 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.

(2) States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

I Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.”

4.19 In view of the aforesaid international obligation and to co-ordinate and oversee the efforts inter alia taken for elimination of child labour, the Government of India has enacted the Commissions for Protection of Child Rights Act, 2005 and under the provisions thereof, the National Commission for Protection of Child Rights (herein after referred to as 'NCPCR') was set up in March 2007. Section 13 of the said Act provides that the NCPCR has to examine the safeguards provided under any law for protection of child rights and recommend measures for their effective implementation, inquire into violations of child rights and recommend initiation of proceedings, inquire into complaints and take suo moto notice in cases of deprivation of child rights or non-implementation of laws or non-compliance of policies amongst others. The said act also provides for a State Commission for Protection of Child Rights (Section 17) at the State level. According to available information, 12 States have constituted State Commissions

and others are in the process of complying with the said provision. Section 25 of the said Act also provides for special courts to be constituted for trying the offenses relating to children's rights including child labour so that such offenses can be swiftly and effectively dealt with.

vii). NATIONAL FOOD SECURITY BILL, 2011

4.20 Apart from framing the aforesaid legislations, Government of India has also introduced the National Food Security Bill, 2011 in the winter session of the Parliament which seeks to provide food items at subsidised prices to the vulnerable sections of the society. The National Food Security Bill envisages discouraging such vulnerable sections to send their children to work who otherwise would have been forced to work in order to augment the family income. This Bill is yet to be passed.

Q. IMPLEMENTATION AND MONITORING OF CHILD LABOUR (PROHIBITION AND REGULATION) ACT 1986

4.21 An enactment may not bring in the intended results till such time it is fully implemented and monitored. Under the Child Labour (Act officials conduct investigations throughout India. Prosecutions are launched in respect of any violations found during such inspections. Upon completion of the due process, convictions are obtained from the courts and the offenders are punished either by way of imprisonment or fine or both.

i). ALL INDIA PERFORMANCE

4.22 As per the figures made available by the Ministry of Labour and Employment, Government of India during 1997-98 to 2004-05, around 2.35 million inspections were carried out across the country and 143,804 violations were detected under the Child Labour Act. Further, amongst the violations detected, after due prosecution 21481 offenders were convicted during the said period³¹. Further as per the latest data received on the enforcement of Child Labour Act in the last 5 years i.e. for the period of 2006 till June 2011, total 1.63 million inspections were carried out wherein 26,992 violations were detected. The number of prosecution was 51987 out of which 4924 offenders were convicted while 2932 were acquitted. For easy reference, data is tabulated below:

Sl.No.	Particulars	1997-98 to2004-05	2005-06 to2010-11
1	Investigations conducted	2,353,098	1,631,665
2	Violations detected	143,804	26,992
3	Prosecutions launched		51,987

³¹http://www.ncpcr.gov.in/Reports/Enforcement_Figures_on_Child_Labour_from_MOLE_Website.pdf.

4	Convictions obtained	21,481	4,924
5	Acquittals	5,505	2,932

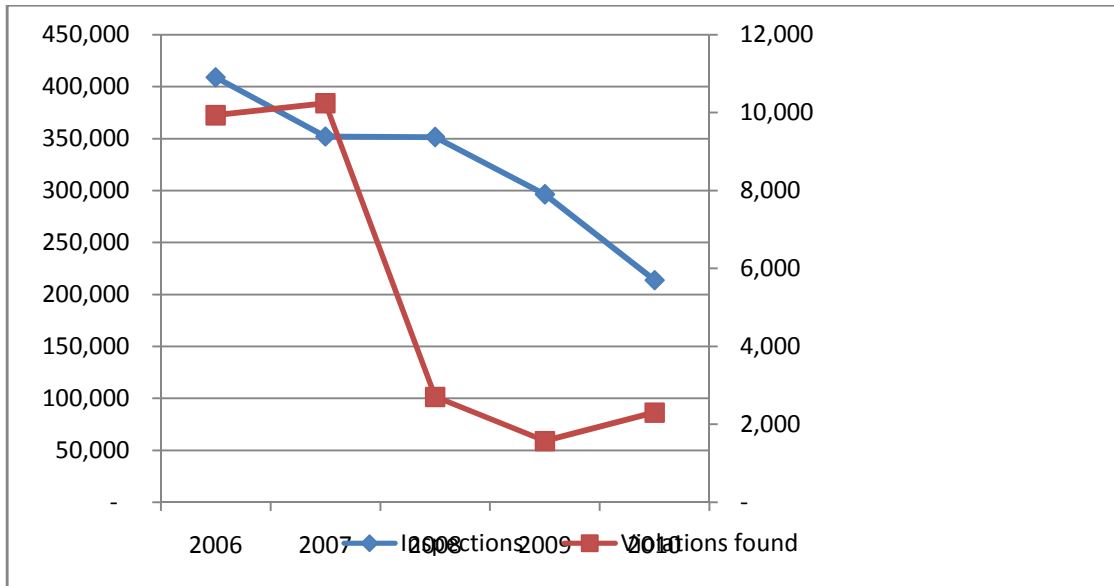
4.23 The period is broken up into 1997-98 to 2004-05 and 2005-06 to 2010-11 merely because the data has been made available in that fashion. Though the data for 2010-11 is incomplete, however, a closer look at the data for the last 5 years i.e. 2006 to 2010 shows that number of investigations conducted and violations found are on the decline for India as a whole.

All India	2006	2007	2008	2009	2010
Inspections conducted	408,991	352,075	351,589	296,463	213,869
Violations found	9,930	10,236	2,708	1,575	2,304
No. Of violations found per 100 inspections conducted	2.4	2.9	0.77	0.53	1.07

4.24 From 10,236 violations in 2007, number of violations came down to 2,708 in 2008 and further went down to 1575 in 2009. It increased marginally to 2304 during 2010.

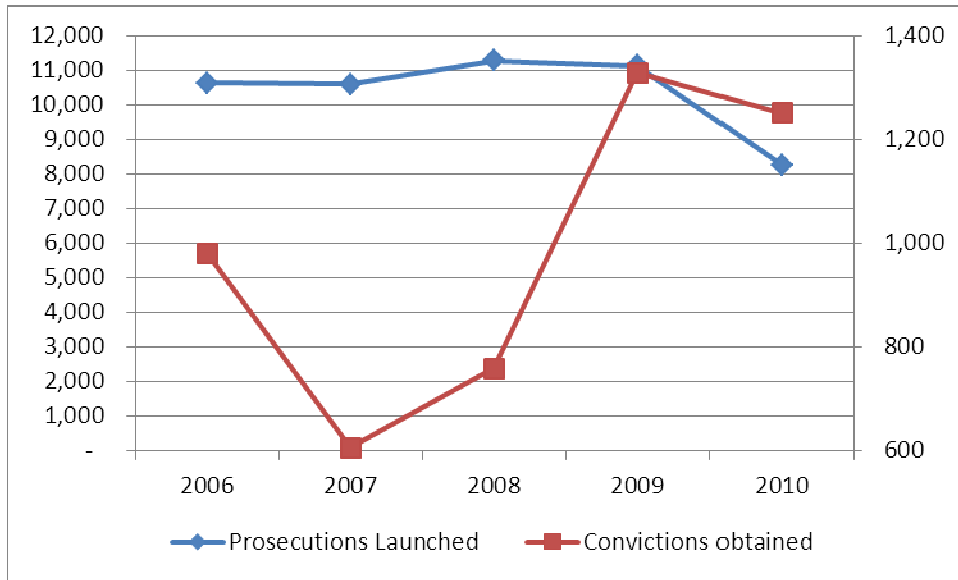
4.25 A more reliable indicator could be “No. Of violations found per 100 inspections conducted”. It was 2.4 in 2006 and 2.9 in 2007 but it came down to 1.07 in 2010. It was less in 2008 and 2009 in all probability due to non-inclusion of data from some of the States like Punjab, Uttar Pradesh, etc. The data for most of the States had been considered for the years 2006, 2007 and 2010. A comparison of the figures for that period clearly establish that the number of violations found per 100 inspections conducted has come down in 2010 to almost half of what it was during 2007.

4.26 The decline in the absolute number of violations found as well as the no. Of violations found per 100 inspections establish that there is a significant decline in the incidence of child labour in the country as a whole.



4.27 Further, a total of 8261 prosecutions were launched in 2010. This is lower than the number of prosecutions launched in the previous years. However, number of convictions has remained at a significantly higher level as compared to earlier years.

Particulars	2006	2007	2008	2009	2010
Prosecutions launched	10,631	10,587	11,282	11,127	8,261
Convictions obtained	981	606	759	1,328	1,250



4.28 The higher number of convictions act as a deterrent and leads to employers shunning away from employing children. The increase in the convictions also shows that the law is being rigorously implemented.

ii). PERFORMANCE OF VARIOUS STATES

(a) No. Of investigations conducted

4.29 It may be interesting to see how some of the major States have fared. Tamil Nadu tops the list of number of investigations conducted during 2010. While Karnataka and Gujarat come at second and third positions, Uttar Pradesh also is in the list at 12th position.

Sl.No.	Name of the State/Union Territory	2006	2007	2008	2009	2010
1	Tamil Nadu	220,667	171,455	204,374	195,826	129,047
2	Karnataka	39,658	17,333	27,944	13,454	13,609
3	Gujarat	10,713	26,292	8,995	13,711	12,640
4	Punjab	9,432	12,664			12,485

5	Bihar	20,542	24,720	33,686	22,918	12,288
6	Pondicherry	15,335	10,671	14,183	12,200	9,932
7	Jharkhand	1,285	1,048	1,450	4,281	5,215
8	Maharashtra	27,351	23,315	16,825	5,946	2,940
9	Jammu & Kashmir	4,378	4,686	3,074	3,949	2,868
10	Haryana	1,579	3,302	3,430	2,739	2,537
11	Assam	4,025	4,056	3,213	3,172	2,332
12	Uttar Pradesh	3,807	6,432	5,682	5,519	2,135

(b) *No. Of violations found*

4.30 In 2010, Punjab tops the list of number of violations found with 655 violations. Tamil Nadu is at 6th position with just 59 violations. Tamil Nadu has recorded fewer violations consistently in the past five years indicating strict implementation of the laws.

Sl.No.	Name of the State/Union Territory	2006	2007	2008	2009	2010
1	Punjab	172	206	DNA	DNA	655
2	Karnataka	1,792	1,073	610	546	549
3	Gujarat	764	440	516	269	455

4	Andhra Pradesh	323	727	946	511	334
5	Jharkhand	75	13	31	21	113
6	Tamil Nadu	181	394	186	67	59
7	Haryana	119	201	105	20	58
8	Chandigarh		8	16	41	45
9	Rajasthan	19	26	9	6	18
10	Maharashtra	399	357	106	71	15

DNA : Data Not Available

(c) *No. Of prosecutions launched*

4.31 Madhya Pradesh tops the list with a launch of 5772 prosecutions while Uttar Pradesh is at 4th position with 356 prosecutions and Tamil Nadu at 10th position with 38 prosecutions.

Sl.No.	Name of the State/Union Territory	2006	2007	2008	2009	2010
1	Madhya Pradesh	5,516	5,817	7,264	7,707	5,772
2	Bihar	284	1,391	1,217	1,481	632
3	Karnataka	3,235	732	287	356	479
4	Uttar Pradesh	192	592	678	643	356

5	Delhi	202	248	313	284	313
6	Haryana	9		251	35	210
7	Gujarat	211	276	302	195	112
8	Punjab	52	212	76	89	105
9	Andhra Pradesh	45	146	138	88	74
10	Tamil Nadu	603	689	218	79	38

(d) *No. Of convictions obtained*

4.32 Uttar Pradesh tops the list with 444 convictions. Convictions obtained in a year may relate to prosecutions launched in the past several years as the court process may take more than a year in several instances. In the light of the fact that Uttar Pradesh has launched 192, 592, 678 and 643 prosecutions in 2006, 2007, 2008 and 2009 respectively, 444 convictions in 2010 indicate that enforcement functions are taken very seriously in the State of Uttar Pradesh.

Sl.Nos.	Name of the State/Union Territory	2006	2007	2008	2009	2010
1	Uttar Pradesh	19		99	198	444
2	Madhya Pradesh	59	58	68	447	324
3	Punjab	15	32	100	29	251
4	Haryana	14	3	43	33	81

5	Tamil Nadu	623	191	295	178	56
6	Gujarat	14	27	17	16	23
7	Andhra Pradesh		57	5	23	22
8	Jammu & Kashmir	1	11	25	62	19
9	Karnataka	170	180	89	311	12
10	Chandigarh		3			6

iii). INDIVIDUAL PERFORMANCES OF TWO SELECT STATES

4.33 Data relating to select two States are reviewed below.

Tamil Nadu

4.34 Tamil Nadu appears to have done consistently better than many of the other States in India. While the number of inspections carried out during 2010 stood at a healthy 129,047, number of violations found has come down to 59 instances in 2010 as against 181 and 394 in 2006 and 2007 respectively. Prosecutions and convictions have come down indicating lower incidence of child labour.

Particulars	2006	2007	2008	2009	2010	2011
Inspections conducted	220,667	171,455	204,374	195,826	129,047	126,264
Violations found	181	394	186	67	59	60
Prosecutions launched	603	689	218	79	38	23
Convictions obtained	623	191	295	178	56	26

Delhi

4.35 Data for Delhi is not available for all the parameters for the last five years. Available data shows that Delhi government is very active in undertaking implementation and monitoring activities. With 313 prosecutions in 2010, Delhi stands at 5th position. Data also shows that Delhi has been consistently launching significant number of prosecutions every year during the last five years.

Particulars	2006	2007	2008	2009	2010
Inspections conducted	1,446	2,587	DNA	DNA	DNA
Violations found	313	338	DNA	DNA	DNA
Prosecutions launched	202	248	313	284	313
Convictions obtained	29	8	DNA	DNA	DNA

iv). OVERALL COMMENTS ON ENFORCEMENT

4.36 The data shows that Child Labour Act is being implemented rigorously by all the States. Such implementation has resulted in a fewer number of violations over the years. Number of convictions obtained is on the increase indicating strict implementation of the provisions of the Child Labour Act. The increasing number of convictions acts as a deterrent to employers in engaging child labour. Thus, Government of India is taking concrete steps, in a coherent and consistent manner year after year, in identifying and eliminating child labour and in punishing the guilty.

R. INTERNATIONAL COOPERATION BY GOVERNMENT OF INDIA

4.37 Further to enacting laws suited to Indian conditions and implementing them in a rigorous manner, India has also been active in collaborating with the international community in its efforts to eliminate child labour practices.

4.38 India is a founder member of the International Labour Organization that came into existence in 1919. India is a signatory to major International Labour conventions. India has ratified C.29 – Forced Labour Convention, 1930 and C-105 – Abolition of Forced Labour Convention, 1957. India is in total compliance with all the mandatory Forced

Labour Recommendations, 1930. Recommendations regarding the elimination of forced labour are reflected in the domestic laws in India.

- 4.39 India upholds in high esteem the 'Fundamental Principles and Rights at work and its Follow-Up' (ILO Declaration) as adopted by the International Labour Conference at the eighty-sixth session, Geneva, 18 June 1998. Pursuant to the obligations arising out of Article 2 of the Declaration, India has strived to promote, respect and realize elimination of all forms of forced and compulsory labour and the abolition of child labour. Numerous legislative enactments, multi-stake holder programmes by Government of India at central and state level and initiatives taken by Industries as cited in this report and in the previous submissions serves as a testimony to our claim.
- 4.40 The Government of India acceded to the UN Convention on the Rights of the Child (CRC) in 1992. CRC prescribes a set of standards to be followed by all State parties in protecting and securing the best interests of children. It deals directly with protection of children especially girls. Under this Convention, the States are to take all appropriate measures to prevent trafficking in children and also protect them from all forms of exploitation and abuse.
- 4.41 India had participated in the World Summit on Children in 1990 and is committed towards the principles enshrined in the resultant 'World Declaration on the Survival, Protection and Development of Children'
- 4.42 Thus, Government of India has been in the forefront in actively participating in the various International Organizations and ratifying and adopting a number of international labour standards. The Indian laws reflect all the international standards that India has ratified so far.
- 4.43 India is a member of G-20. India fully endorses the views of G-20 Labour and Employment Ministers meeting at Washington (April 2010), G-20 Leaders Summit in Seoul (November 2010), G-20 Labour Ministerial at Paris (September 2011) and the Cannes Summit Declaration (November 2011). India is taking effective steps for fostering employment and social protection to adult workers.
- 4.44 The Cannes summit final declaration stated that employment must be at the heart of the actions and policies to restore growth and confidence. Towards this goal, India is committed to investing in nationally determined social protection floors such as access to health care, income security for the elderly and persons with disabilities, child benefits and income security for the unemployed and assistance for the working poor. There are a

number of programs already in place in India in each of the areas mentioned in the declaration. The details of some of the programs are given elsewhere in this submission.

S. WELFARE MEASURES TO PROMOTE THE REQUIRED SOCIO-ECONOMIC CONDITIONS TO ELIMINATE CAUSES OF CHILD LABOUR

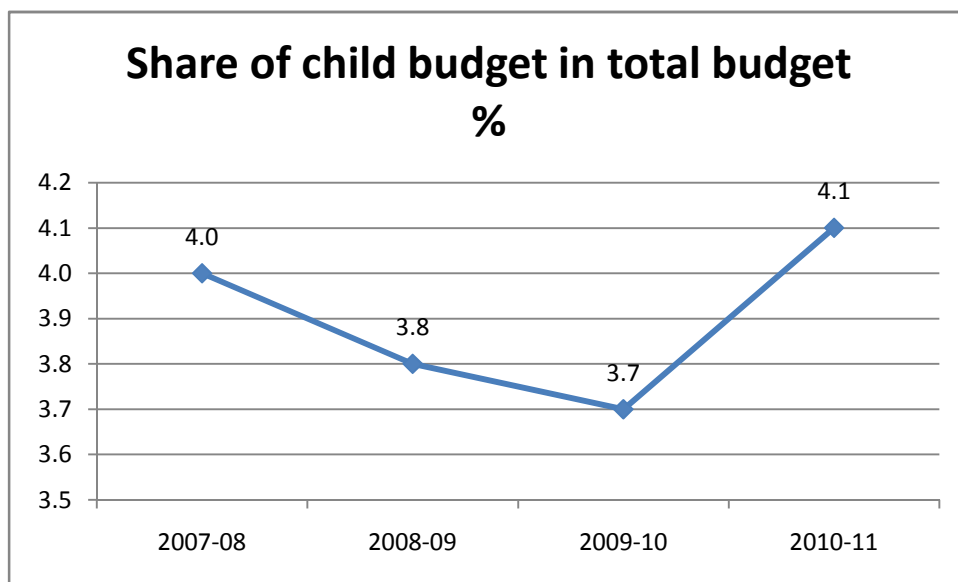
i). PROGRAMS OF MINISTRY OF LABOUR & EMPLOYMENT

- 4.45 Considering that poverty and illiteracy are the root causes of child labour, the Government of India is following a multi-pronged strategy to tackle this problem. Educational rehabilitation of these children has to be supplemented with economic rehabilitation of their families so that they are not compelled by their economic circumstances to send their children to work.
- 4.46 Towards this end, Government of India through the Ministry of Labour & Employment launched National Policy for Children, 1987. The objective of the said Policy is to focus on convergence of general development programmes for benefiting children wherever possible, and strict enforcement measures to retrieve and rehabilitate children from child labour practices.
- 4.47 A Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Migrant and Trafficked Child Labour (hereinafter referred to as 'Protocol') was issued in May 2008 to provide guidelines to state and district level authorities and NGO's for smooth rescue and repatriation, rehabilitation and re-integration of child labourers. The Protocol applies to any migrated and trafficked child labourer in the country. It empowers the responsible authorities to conduct rescue operation or get it conducted on its behalf. Labour Department is also involved in the rescue operations of the child labour. Further, wherever possible, voluntary assistance of social organizations or NGO's or other responsible citizens are also included in the rescue as well as in the post rescue operations to take care of the children rescued.
- 4.48 The Protocol has been circulated among all the States for implementation. Workshops have also been held to sensitize the various stakeholders, including officials of the State Government. A few more workshops will be conducted by the V. V Giri National Labour Institute to ensure better understanding of the problem of child labour, especially their trafficking for work³².
- 4.49 In financial terms, the Government of India has allocated significant resources for its 'Child Budget'. The magnitude of 'Child Budget' within the Union Budget, i.e. the

³² Ibid., 18

aggregate outlay for child-specific programs as a proportion of total budget outlay by the Union Government increased up to 4.1 percent in 2010-11 (Budget Estimate) from 3.7 percent in 2009 – 10 (Revised Estimate). , which has further increased to 5.3 percent during 2012-13. Furthermore in the Union Budget 2012-12³³, following child specific allocations have been made:

- a) Allocation of Rs. 15,850 crore made for Integrated Child Development Service(ICDS) scheme, representing an increase of 58 per cent over BE 2011-12.
- b) Rs. 11,937 crore allocated for National Programme of Mid Day Meals in schools.
- c) An allocation of Rs. 750 crore proposed for Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, SABLA.



4.50 The Government of India has introduced a number of programs to tackle child labour. The flagship program is known as National Child Labour Project (NCLP) implemented by Ministry of Labour & Employment of the Government of India. Salient features of NCLP are given below.

(a). *National Child Labour Project ('NCLP Program')*

1. *Brief outline of the program*

4.51 Coordinated by Ministry of Labour and Employment, Government of India, the NCLP Program operates at the district level to identify working children through child labour survey, withdraw them from work and put them into the special schools so as to provide them with enabling environment to join mainstream education system. Besides providing

³³ www.indiabudget.nic.in

with bridging education, children are also provided with nutrition, monthly stipend, vocational training and health care facilities including regular health checkups.

4.52 Efforts are also made under the NCLP Program to target the families of these children so as to cover them under various developmental and income/employment generation programmes of the Government of India. Under the Program intensive activities are undertaken to raise public awareness on Child Labour. In addition to the same, a survey is carried out twice in five year period to assess the situation of Child Labour at the grass root level.

2. *Plan Allocation for NCLP*

4.53 NCLP being the single largest program among all the child labour related programs in the country, approximately 90 per cent of the total fund of Rs. 670 crore under different child labour programs during the 10th Five Year Plan was budgeted under NCLP. Total Plan allocation to NCLP has increased by approximately 40 times during the last 15 years. The Total Plan allocation has increased from Rs. 15 crore during the 8th Five Year Plan to Rs. 250 crore in the 9th Five Year Plan, Rs. 602 crore during the 10th Five Year Plan and Rs. 3738.91 crore during the 11th Five Year Plan. Furthermore, a total of Rs. 1.431 billion was released under NCLP scheme during 2011-12.

Table : Plan Allocation for NCLP

Plan	In Rscrores	% Change
9 th Plan	249.60	1564.0
10 th Plan	602.00	141.2
11 th Plan	3738.91	521.1

3. *Earlier submission on NCLP*

4.54 In our earlier responses, it was submitted that NCLP Program was made operational in 250 districts in the country during the 10th Five Year Plan period i.e. 2002-2007; a stipend of Rs. 100/- per month was provided to the children who were withdrawn from work; 8887 NCLP schools were running in the country in 2008 with a total number of enrolments of 340,000 children besides the fact that 450,000 working children were already mainstreamed to regular education.

4. *New information about NCLP*

- 4.55 Starting with 12 child labour endemic districts with 21 NCLP Schools under 7th Five Year Plan (1985-1990), number increased to 266 districts in 20 states³⁴ by 2009-10. During 11th Five Year Plan (2007-2012) 64 new projects on child labour eradication have been operationalized.
- 4.56 In 2010-11, 21 new projects have been introduced in to NCLP. The program has been extended to cover 271 districts in the country with more than 330, 000 children being mainstreamed during 11th Five Year Plan (2007-2012). At present there are around 10,000 NCLP schools being run in the country with an enrolment of approximately 500,000 children with 705,000 working children being already mainstreamed into regular education stream.³⁵ Furthermore, in 2010-2011³⁶, along with an increase of 25% in the honorarium of project society staff and schools (w.e.f. 01-04-2011), student stipend has also been increased from Rs 100 /- to Rs 150/- per month.
- 4.57 Government of India has formulated a number of new strategies under NCLP in the 12th Five year Plan period (2012-2017)³⁷. Salient features of the proposed strategies are listed below:
- a) Extension of NCLP Program in other districts based on the child labour data of Census 2011.
 - b) Formation of State Project Society under the Chairpersonship of Principal Secretary/ Secretary (Labour) for implementation of NCLP Program.
 - c) Creation of National Level Monitoring Committee
 - d) Creation of State Level Monitoring- two tier monitoring committees at state level will be more effective. (a) Core Committees on child labour under chief secretary and (b) State monitoring committee under State labour Secretary
Revision of NCLP Program with addition of following components:
 - e) Child Labour Survey in all districts.
 - f) Standard Curriculum and learning material to be adopted in all NCLP Schools.
 - g) Teacher training twice during 12th Five Year Plan preferably through DIETs/DRUs in the districts, in association with SarvShikshaAbhiyan.

³⁴ www.labour.nic.in/Report_to_People.pdf 'Annual Report to the People on Employment 2010', Government of India Ministry of Labour and Employment.

³⁵ <http://labour.nic.in/annrep/annrep1011/English%20AR%202010-11/EAR.pdf>

³⁶ www.labour.nic.in/Report_to_People.pdf 'Annual Report to the People on Employment 2010', Government of India Ministry of Labour and Employment.

³⁷ labour.nic.in/cwl/WorkingGroupPresentation.ppt

- h) Comprehensive Pre-vocational training.
- i) Strengthening of health component.
- j) Provision of uniform and school bags.
- k) Residential schools for migrant child labour.
- l) Enhancement of Honorarium of Staff/ teachers of NCLP society/ schools.
- m) Enhancement of Stipend of school children.
- n) Enhancement of rent for school buildings.
- o) Award Program to motivate the project officials.
- p) Awareness generation.
- q) Vocational training for adolescents after completion of study in NCLP Schools.
- r) Creation of National Monitoring Cell and State level monitoring cell.
- s) Tracking and monitoring of child labour.

4.58 Some of the strategies listed above such as creation of a project society at the State level, creation of a monitoring cell both at the National and State levels, Conducting a child labour survey in all districts, tracking and monitoring of child labour, etc will substantially enrich the current implementation and monitoring systems. The proposed strategies coupled with increased budget allocation show the commitment of the Government of India towards abolition of child labour in any form in India. These steps cannot be brushed aside as ‘plans for action’ yet to be implemented. They shall be viewed as an indication of the resolve of the Government of India in its efforts for continuation of the significant steps that are being undertaken at present.

ii). PROGRAMS BY OTHER MINISTRIES

4.59 A number of other ministries of the Government of India have been implementing child labour related programs. Ministry of Labour & Employment is taking various proactive measures towards convergence between the programs of different Ministries like Ministry of Human Resources Development, Ministry of Urban & Rural Poverty Alleviation, Ministry of Rural Development, Ministry of Panchayat Raj Institutions, etc., so that child labour and their families get covered under the programs of those ministries also. A core group under the Chairmanship of Union Labour Secretary involving all these

ministries has also been formed for convergence on a sustained basis among these ministries at the national level. A brief outline of certain major programs is given below.

(a). *SarvaShikshaAbhiyan (SSA) program by ministry of human resource development*

1. *Brief outline of the program*

4.60 SSA is Government of India's main program for achieving universalization of elementary education in a time bound manner pursuant to 86th Constitutional Amendment, 2002 making free and compulsory education to children of 6-14 years a fundamental right. This program ensures children's smooth transition from NCLP Schools into the formal school system.

4.61 In 2012-13, the Central Budget allocation for SSA has been increased to Rs. 255 Billion from Rs. 190 Billion in 2010-11³⁸. Out of Rs. 76.95 billion already sanctioned among 9 states, 72% of the amount has already been utilized. Further, major achievements of SSA Program are listed below:

- a) Availability of schools within close distance of habitations has improved with more than 98% of the rural habitations having access to elementary schools within 3 km. In the urban areas, 93% of the slum children access neighbourhood schools within 1km from their homes.
- b) Significant progress in the attainment of accessibility targets as the number of unserved habitations has declined across all states as a result of opening up of new schools and setting up of EGS (Education Guarantee Program) centres.
- c) Rapid rise in the overall enrolment of children in Assam, Bihar, Chandigarh, Madhya Pradesh, Rajasthan and Uttar Pradesh.
- d) A majority of the schools in the villages (over 75%) are Government schools (including Govt. aided and local body schools).
- e) Student attendance rates improved with increased enrolment ratios. 62% of the rural schools reported average attendance of more than 75% as against 68% of urban schools.³⁹
- f) Free distribution of teaching and learning materials. In almost all the districts, the education department has contributed to the NCLP by distributing these materials in the special schools. For example, in the district of Jamui in Bihar, 2000 children were distributed text books and other learning materials while 769 parents benefited under different development Programs of the central and state

³⁸<http://www.educationmaster.org/news/revised-sarva-shiksha-abhiyan-ssa-2011.html>

³⁹www.saiindia.gov.in 'Evaluation Report on SarvShikhshaAbhiyan 2010'.

governments. Feedback with those parents clearly indicated that parents find it much easier to withdraw their children from work and send them to schools if such developmental programmes resolve their educational and livelihood problems. Out of these parents, approximately 60 per cent were benefited under the Indira Awas Yojna Program of the Ministry of Rural Development, Government of India.⁴⁰

(b). *Programs under the RTE Act 2009 – Ministry of Human Resources Development*

4.62 The recently enacted RTE Act, 2009 lays out Government of India's commitment to protect children from child labour and to provide universal access to primary education with a focus on children from disadvantaged social groups. The Act provides for free and compulsory education to all children ages 6 to 14⁴¹. Steps have been initiated to realign NCLP Program with the provisions of the RTE Act, 2009.

(c). *Mid Day Meal Program ('MDM Program') under the Ministry of Human Resource Development*

1. *Brief outline and earlier information*

4.63 Nutrition component of NCLP Program has been converged with MDM Program. The MDM Program is the world's largest school feeding programme reaching out to about 120 million children in over 1.265 million schools and EGS (Education Guarantee Program) centres across the country⁴². About 84.1 million Primary children and 33.6 million Upper Primary children aggregating to a total of 117.7 million children have been estimated to have benefited from the MDM Program during 2009-10. Approximately 110.4 million children were covered under MDM Program during 2009-10. During 2010-11, 11.36 Cr children i.e 7.97 Cr. children in primary and 3.39 Cr. children in upper primary were expected to be covered in 12.63 lakhs institutions.

2. *Additional and new information*

4.64 Compared to 2010-2011, where around 113.6 million children (79.7 million in primary and 33.9 million in upper primary schools) were covered in 1.263 million institutions, number of children increased to 142.9 million children (96.42 million in primary and 46.5 million in upper primary schools). Today, MDM Program is serving primary and upper primary school children in the entire country.⁴³

⁴⁰http://www.vvgnli.org/NCLP_Book.pdf

⁴¹<http://wcd.nic.in/nationalcharter2003.doc>

⁴²<http://education.nic.in/Elementary/mdm/index.htm>

⁴³ Ibid.,9

4.65 Mid-day meal programmes and the Sarva Shiksha Abhiyan in India have helped increase the enrolment and retention of children in schools.

(d). *The Integrated Child Protection Program (ICPS) – Ministry of Women and Child Development*

4.66 The objective of ICPS is to protect children trapped in child labour, child trafficking and other difficult situations and to bring them into the mainstream of the society. The Program envisages creating public awareness, increasing accountability on child protection, enhancing service delivery and setting up of monitoring and evaluation system involving Government, Civil Society Organizations, Community Groups and Local Leaders, Youth Groups, Families and Children⁴⁴. Under this Program, every district would have child welfare committee, juvenile justice board, juvenile and police units.

(e). *BalikaSamridhiYojana under the Ministry of Women and Child Development*

4.67 Under this Scheme, the State deposits Rs. 500 in an interest bearing account in the name of the girl child. When the girl turns eighteen, she may avail of the money if she is still unmarried. Annual scholarships are also awarded under this program to encourage retention of girl children in schools⁴⁵. The Program also ensures admission of girl child withdrawn from work into residential schools under SC/ST/OBC programs.

(f). *The National Commission for Protection of Child Rights (NCPCR) under the Ministry of Women and Child Development*

4.68 The National Commission for the Protection of Child Rights (NCPCR) was constituted in 2007 as a statutory body with a mandate to review all policies, laws and programmes related to children's rights including elimination of child labour from the country. The commission is actively involved in child labour eradication programs of the Government of India. It regularly issues directions to the State Governments and various Export Promotion Councils to set up a self-regulatory mechanism to check child labour from supply to export stage. It also advises the export promotion councils to put in place self-regulatory systems to certify non-engagement of child labour right from the supply to export stages of the manufacturing process. Besides this, directions have also been issued to the Chief Secretaries of all States to strengthen enforcement of laws related to child labour such as the Juvenile Justice Act, 2006, Bonded Labour System (Abolition) Act, 1976 and Child Labour (Prohibition and Regulation) Act, 1986.⁴⁶

⁴⁴www.wcd.nic.in/wgchildrenprotection.pdf

⁴⁵<http://ccs.in/ccsindia/downloads/intern-papers-07/Education-for-Womens-Empowerment-183.pdf>

⁴⁶<http://www.indianexpress.com/news/stop-child-labour-take-selfregulatory-step/336498/>

4.69 Recently, the Commission issued directions to the State Governments to constitute a State-Level Core Committee on child labour under the leadership of Secretary Labour, along with the Secretaries of Education, Home, Social Welfare and Deputy Commissioners of the vulnerable districts as its members.⁴⁷

4.70 During the year 2011-12(up to 31st December 2011), NCPCR has dealt with 493 complaints of violations/deprivations of child rights on the issue of child labour, sexual abuse, corporal punishment, juvenile justice, child abuse, girl child, police atrocities, child health and malnutrition, etc. Such cases have been referred to the concerned authorities in respective States/UTs for remedial action. The Commission has also taken *suo moto* notice of 91 cases of violations/ deprivation of child rights with concerned authorities for remedial measures.⁴⁸

(g). *“Childline” program under Ministry of Women and Child Development*

4.71 This project links State Governments, NGO’s bilateral/multilateral agencies and corporate sector in dealing with the menace of child labour in the country. The Ministry of Social Justice and Empowerment, Government of India, has appointed CHILDLINE India Foundation (CIF) as the nodal agency for initiating and sustaining CHILDLINES across the nation. CHILDLINE 1098 service is a 24 hour free emergency phone outreach service for children in need of care and protection. CIF is responsible for the establishment of CHILDLINE centres across the country. As on date, CHILDLINES have started functioning in 68 new locations in 2011 with this, the service is now available in 193 cities. CIF has also partnered with 447 organisations for running the Childline projects in 26 states and 3 union territories. The service is likely to start in 18 more cities/ districts this year, bringing the total to 211. A budget of Rs. 23.16 crores was sanctioned in the year 2011-12to CIF for running the service.⁴⁹

(h). *Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) under the Ministry of Rural Development*

4.72 MGNREGA aims to secure minimum employment to every household and thereby curb the menace of child labour. Under this Act, the State Governments shall provide “*not less than 100 days of work in a financial year*” to every household in the notified rural area whose adult members volunteer to do unskilled manual labour. Thus, by securing the minimum employment to a household, the State is trying to augment the family income and discourage them to send their children to work.

⁴⁷<http://ibnlive.in.com/generalnewsfeed/news/ncpcrchildlabour-2-last/883363.html>

⁴⁸<http://wcd.nic.in/publication/ar201112e.pdf>

⁴⁹<http://wcd.nic.in/publication/ar201112e.pdf>

4.73 While MGNREGA did not explicitly seek to address the issue of child labour, one study suggests that MGNREGA was effective in tackling the problem to some extent. Study was carried out in some remote villages of Dungarpur district in Rajasthan on child migrant labour. Dungarpur district was known for large-scale migration of children between the ages of 10 to 14 for work. The villagers revealed that there has been more than 20 per cent reduction in the incidence of migration amongst children. According to the villagers, the reduction in child labour is a direct result of the impact of MGNREGA. Also, if residential schools for 10 to 14 year old children are built, then more parents would keep their children in school. School teachers reported that MGNREGA had reduced migration by 10 to 20 per cent and school enrolment and retention had improved by 25 per cent. This was largely because parents were staying back because of work availability.⁵⁰

(i). *SwarnjayantiGrameenSwarozgarYojana (SGSY) under the Ministry of Rural Development*

4.74 SGSY is a self-employment programme for the rural poor. The objective is to bring the assisted swarozgaris (self-employed persons) above the poverty line by providing them income generating assets through bank credit and Government subsidy. The Program is important in the context of providing livelihood support to the parents as once they are able to generate income, chances of them sending their children to work considerably reduces. Since inception (1.4.1999) up to December, 2012, 53.16 lakh self-help groups have been formed out of which 21.47 lakh are women groups (69%). Till 2010 a total no. of 1503 families in 11 districts have benefitted from this program.⁵¹

(j). *Indira AwasYojana (IAY) under the Ministry of Rural Development*

4.75 This program provides grant for construction of houses to members of scheduled castes/scheduled tribes, freed bonded labourers and also to non-SC/ST rural poor below the poverty line. Since inception of scheme about 272.83 lakh houses have been constructed with an expenditure of Rs. 78986.81 crore (upto end 2011). Further, for the financial year 2011- 12, Rs. 10000.00 crore has been provided for Rural Housing, out of this Rs. 9491.20 crore has been earmarked under IAY for release to the various districts of various States for construction of 27.27 lakh houses.⁵² This program solves the housing needs of the poor and rehabilitated bonded labourers which in turn considerably reduce the instances of children being sent to work.

⁵⁰<http://www.ilo.org/legacy/english/protection/travail/pdf/rdwpaper32a.pdf>

⁵¹http://rural.nic.in/sites/downloads/annual-report/Annual_Report_2011_12_E.pdf

⁵²http://rural.nic.in/sites/downloads/annual-report/Annual_Report_2011_12_E.pdf

(k). *Miscellaneous programs that may significantly aid in reducing children from being sent to work*

4.76 There are a number of other miscellaneous programs that may not have a direct element in reducing child labour. They intend to help children rescued from employment in acquiring certain skills or help the parents in the vulnerable sections of the society; confer them certain valuable economic benefits which in turn help reduce the chances of those parents sending their children to work. A few of such programs are listed below.

1. *National Skill Development Initiative Program (NSDI) under the Ministry of Labour and Employment*

4.77 NSDI is a first-of-its-kind public private partnership (PPP) in India set up to facilitate the development and upgrading the skills of the growing Indian workforce through skill training programs. NSDI supports skill development efforts, especially in the unorganised sector by funding skill training and development programs. It also provides an opportunity to the *child labourers* to acquire and develop skills so that they can have a smooth transition into the economic and social mainstream.

4.78 Under the NSDI Program vocational training programmes are provided to children withdrawn from child labour and to the parents of child labourers.⁵³ Approximately 4.99 lakh persons have been trained up to 31st March, 2010. By the end of 2011, approximately 3 lakh persons will be trained under NSDI Program in short term modular courses.⁵⁴

2. *Grants-in-aid program under the Ministry of Labour and Employment*

4.79 During 2010-2011, under the Grants -in -Aid Program, about 65 voluntary organisations/ NGO's are being financially assisted to the extent of 75% of the project cost, for taking up action – oriented projects for the rehabilitation of working children. Periodic reports from the assisted NGO's field visits by official of the central and state governments play an important role in monitoring these projects.⁵⁵

3. *RashtriyaSwasthyaBimaYojana (RSBY) under Ministry of Labour and Employment*

4.80 RSBY is one of the most important social security programs for unorganized sector workers. The program provides smart card based cashless health insurance to the *below poverty line* (BPL) workers and their families (up to five in all). The program also offers coverage of Rs 30,000 for any member hospitalisation during the year. The Central

⁵³www.labour.nic.in 'Skill Development Initiative Program Implementation Manual'

⁵⁴www.labour.nic.in 'Annual Report 2010-2011'

⁵⁵LABOUR.NIC.IN/ANNREP/ANNREP.HTM 'ANNUAL REPORT 2009-2010'

Government contributes 75% (in case of North-Eastern States and Jammu & Kashmir, it is 90%) of the premium and the remainder is borne by the State Governments. About 33.06 million BPL families have been issued health insurance smart cards and 12,538 hospitals have been empaneled till November, 2012. As the programs support the health expenses of the families below poverty line, the families are no longer forced to send their children to work in situations where a member of the family falls ill and need for alternate source of income arises.

4. *Mahatma Gandhi BunkarBimaYojana (MGBBY)* ⁵⁶ under the Ministry of Textiles

4.81 The MGBBY is being implemented through the Life Insurance Corporation of India. The funding pattern of the annual premium of Rs 330/- per member under the program is as under:

S.No.	Particulars	Amount
1.	GOI contribution	Rs.150/-
2.	Weavers' Contribution	Rs. 80/-
3.	LIC's contribution	Rs. 100/-
4.	Total premium	Rs.330/-

1.2 During the 11th Plan, the benefits available under the MGBBY are given as under:

S. No.	Details	Benefits from 1.10.07
1.	Natural Death	Rs.60,000/-
2.	Accidental Death	Rs.1,50,000/-
3.	Total Disability	Rs.1,50,000/-
4.	Partial Disability	Rs.75,000/-

4.82 In addition to the above, under the MGBBY, a scholarship of Rs 300/- per quarter per child is being paid to students studying in standard IX to XII for a maximum period of

⁵⁶ www.texmin.nic.in

four years or till they complete XII standard, whichever event occurs earlier. The benefit is restricted to two children of the member covered. The Program takes care of the loss of income of a weaver family in case the earning member of the family dies or suffers disability and ensures that the family is no longer constrained to send their children to work.

(l). *Certain other significant initiatives of the government to reduce child labour*

4.83 In addition to the above programs, Government of India has also introduced a number of programs and policy initiatives to create awareness about child labour, the need to avoid child labour and the methods of rehabilitating them. Some of the policy initiatives are listed below:

- (a) Extensive media campaign was launched in electronic and print media
- (b) Yearly funds were also released to state Governments for generating awareness.
- (c) Convergence with Ministry of Women & Child Development for supplementing the efforts of this Ministry in providing food & shelter to the children withdrawn from work through their Programs of Shelter Homes etc.
- (d) Convergence with Ministries of Rural Development and Urban Housing & Poverty Alleviation, Panchayati Raj for covering the families of these children under their various income & employment generation Programs for their economic rehabilitation.
- (e) Convergence with Ministry of Railways for generating awareness and restricting trafficking of children

4.84 The impact of all the programs on the problem of child labour has been quite positive and of a significant degree. Data on investigation, violations, prosecutions and convictions showing reduction in the number of violations is a positive proof of the efficacy of the multipronged approach of the Government of India. No doubt, Government of India is making a concerted effort in identifying and rescuing children from employment and in rehabilitating them and also in creating an environment in which the root causes of child labour are eliminated.

V. ADDITIONAL AND SIGNIFICANT NEW INFORMATION ON INITIATIVES TAKEN BY STATE GOVERNMENTS

T. BRIEF OUTLINE

5.1 Following the initiatives of the Government of India, a number of state governments have taken steps to further the cause of abolition of child labour in India. Their efforts include enactments suited to their State, implementation and monitoring of adherence to the statutory provisions, policy measures to abolish child labour. They also take concerted efforts consistently year after year. Due to paucity of time and resources, the efforts of three States namely Tamil Nadu and Delhi are covered in this section.

U. EFFORTS MADE BY THE GOVERNMENT OF TAMIL NADU

5.2 Several legislations enacted by Tamil Nadu include (a) Tamil Nadu Shops and Establishments Act, 1947 that prohibits employment of children who have not completed 14 years of age (b) Tamil Nadu Catering Establishments Act, 1958 that prohibits employment of children who have not completed 16 years of age; (c) Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act 1981 that prohibits employment of children who have not completed 16 years of age; (d) Tamil Nadu Manual Workers (Regulation of Employment and conditions of work) 1982 that prohibits employment of children who have not completed 16 years of age in any scheduled employment.

5.3 As stated earlier, Tamil Nadu is very particular in implementing, and monitoring adherence to, the provisions of its various child labour related statutes. The number of child labour in the State has decreased from 4.19 lakh in 2001 to 13,446 in 2011⁵⁷. During 2011-12, a total of 126,264 establishments were inspected out of which only 60 cases of violations were found.

5.4 National Child Labour Project is functioning in 17 Districts in the State and they are Chennai, Coimbatore, Erode, Dindugul, Dharmapuri, Theni, Krishnagiri, Thoothukkudi, Trichy, Salem, Vellore, Kancheepuram, Tiruvannamalai, Namakkal, Virudhunagar, Tiruvallur and Tirunelveli Districts. 76,826 children have so far been mainstreamed into formal schools, with 3357 children mainstreamed during 2011-12. 12,920 rescued child labourers are presently studying in 359 Special Schools run under this Project. These children are provided with midday meals, a stipend of Rs. 150/- per month, free bus-pass and free uniforms. Regular Health check-ups of the children are conducted with the help

⁵⁷ Tamil Nadu Labour and Employment Department Policy Note 2012-13

of Health Department. 735 self help groups have been formed for the mothers of child labour families.⁵⁸

- 5.5 The information for 2011 received from the Chief Inspector of Factories, Tamil Nadu indicate the following:

Sl.No.	Particulars	For Textile Industry	For all industries
1	Violations detected	16	19
2	Prosecutions launched	16	19
3	No. of convictions	8	3

- 5.6 Out of the violations detected and prosecutions launched in Tamil Nadu for the textile industry, 8 of them were in Tirupur district. Coimbatore accounted for 4, Dindigul for 2 and Erode and Thoothukudi for one each.
- 5.7 However, it is evident that Tamil Nadu Government is aware of the problem and is taking steps to address the issue head on.

V. EFFORTS MADE BY THE GOVERNMENT OF DELHI

i). STEPS TAKEN BY DELHI GOVERNMENT

- 5.8 As per the Action Plan for Abolition of Child Labour in Delhi 2011, the child labour profile in Delhi is of two types namely (a) Out-of-school children living with their parents; and (b) Children who have come from other States without their families. Delhi Action Plan for total abolition of child labour follows two strategies. The first one is an 'area-based approach' for elimination of child labour. Under this strategy, all children in the age group 6-14 years in an identified area are covered, whether they are in school or out-of-school. All out-of-school children would be regarded as engaged in some form of work and being deprived of their right to education. Children in schools are to be monitored so that they do not drop out and join the labour pool. The 'area-based approach' is initiated as a pilot in the north-west district of Delhi.

⁵⁸ National Child Labour Project in Tamil Nadu, available at <http://www.tnchildlabour.tn.gov.in/nclptn.htm>

- 5.9 The second strategy tackles migrant child labourers who are away from their families and have little or no linkage with the community. It involves a process of identification, rescue, repatriation and rehabilitation. This strategy is being adopted in South Delhi District where there is a large number of migrant child labourers and in all other areas where information is available about the prevalence of such labour.
- 5.10 The enforcement of Child Labour Act and Delhi Shops and Establishment Act, 1954, Juvenile Justice (Care and Protection of Children) Act 2000 and the Bonded Labour System (Abolition) Act, 1976 will be applicable in both cases. It will involve a coordinated effort of all concerned departments/authorities responsible for enforcement.

ii). STEPS TAKEN UNDER THE DIRECTORS OF THE HIGH COURT OF DELHI

- 5.11 Vide order dated 24.03.2011 and 27.4.2011, in the said PIL, the High Court of Delhi issued orders for sealing of 6 factories and arrest of 20 employers and for cancellation of the license of the factories employing child labourers, respectively.
- 5.12 These steps taken by the Government on its own motion or on the directions of the High Court are indicative of the Government's resolve to eliminate child labour even in a densely populated large city like Delhi.
- 5.13 The Chief Inspector of Factories, Government of Delhi in response to the enquiry made by the Government of India, has informed that there have been zero incidence of child labour in textile industry in the year 2011 and consequentially there is no case of any convictions or prosecutions for the same. One violation was detected in other industries and accordingly prosecution has been launched therein.

VI. ROLE OF THE CIVIL SOCIETY IN COMBATING CHILD LABOUR ISSUES

W. BACHPANBACHAOANDOLAN (BBA)

- 6.1 Established by a group of individuals in 1980, Bachpan Bachao Andolan (BBA) is the largest grassroots movement against child labour, child trafficking and child servitude. BBA for over 25 years is crusading in rescuing slave children in India. South Asian Coalition on Child Servitude (SACCS)/Bachpan Bachao Andolan (BBA) was the first civil society initiative to question and fight for abolition of child labour. BBA has a network of over 780 NGOs, Trade Unions and Human Rights Organizations⁵⁹ with a focus on the informal sector of production serving the domestic market, including textile sector.

⁵⁹<http://www.bba.org.in/aboutus>

6.2 BBA's programs include the following:

- (a) **Bal Mitra Gram** aims at a Child Friendly Village strategy based on a holistic vision for child rights and child development. This has been extended in 75 villages as a demonstration for other replicable projects. This has been one of the successful projects of BBA.
- (b) **Bal Ashram** is another program that has since its inception rehabilitated 3000 child labourers and transformed them into leaders. In 2011, 110 children have already received rehabilitation under Bal Ashram.

6.3 BBA's action campaign 'India Action Week against Child trafficking and Child Labour' carried out from 12th September 2011 till 18th September 2011 led to sealing of 27 factories in Delhi which had employed child labour. This goes to prove that action by NGOs and Civil Society would have a better outreach to areas that Government machinery may not be in a position to reach.

6.4 In addition to filing of complaints before police, labour department, sub divisional magistrate, child welfare committees and other relevant government authorities, BBA undertook various awareness generation activities including rallies and demonstrations, demand for recovery of minimum wages from employers and compensation and rehabilitation packages from the government. The major activities of BBA and SACCS partners has been to release and withdraw children from the worst forms of labour particularly from bondage and forced labour, through direct action, secret raids, legal intervention, persuasion and pressure building while ensuring their social, psychological, economic and statutory rehabilitation through quality transitory rehabilitation measures and state efforts.

X. GLOBAL MARCH AGAINST CHILD LABOUR

6.5 The Global March against Child Labour is a movement to mobilize worldwide efforts to protect and promote the rights of all children, especially the right to receive a free, meaningful education and to be free from economic exploitation and from performing any work that is likely to be harmful to the child's physical, mental, spiritual, moral or social development.

6.6 The Global march seeks to eliminate child labour by questioning, attacking and changing the very systems that compel children to work at the global, regional and national levels. The Global March works on a three pronged strategy, i.e. the elimination of child labour, education for all and poverty alleviation. Bringing together policy and action for a

unified response to child labour, illiteracy and poverty is a priority for the Global march⁶⁰.

Y. PARTNERS OF GLOBAL MARCH

6.7 Unity Mission School⁶¹ is an institution managed by Tauheedul Muslimeen Trust (TMT) and is one of the leading schools in Lucknow that is working in the field of education, healthcare and rehabilitation of the underprivileged. Unity Mission School provides Cost-free Education to the under privileged students of the society. Children are provided with books, uniform shoes, transportation and medical aid-all free of charge.

Z. SOCIAL AWARENESS AND VOLUNTARY EDUCATION ('SAVE')

6.8 **SAVE**, an NGO which had worked on labour issues in Tirupur for more than ten years, acknowledged that child labour was no longer a major focus of the organization because it had been dramatically reduced in Tirupur. A SAVE report states that, "the strength of children in the workforce has come down considerably in the last 5 years due to the activism of civil society organizations, both local and international and the increased intervention of the State."⁶²

6.9 A concerted effort led by NGOs with buy-in from industry and government has led to a substantial reduction, if not elimination, of child labour in the garment industry.

AA. CHILD RIGHTS CELL ('CRC')

6.10 **CRC** serves as a platform to rescue and rehabilitate the children from the workforce, street, run away children and railway children towards preventing child labour and child trafficking in Tirupur district of Tamil Nadu. CRC enshrines to restore the lost childhood to the neglected children who become victims of child trafficking and child labour. It acts as a catalyst in making the child rights violation more visible.⁶³

BB. TRADE UNION INITIATIVES

6.11 Indian trade unions have a long tradition of fighting for social justice and they have been active in their fight against child labour⁶⁴. All India Trade Union Congress (AITUC) has successfully collaborated with a wide range of partners- NGO's, employers organisations and government and have actively undertaken public awareness programmes such as poster and wall writing, street plays, well publicised direct action programme to highlight

⁶⁰<http://globalmarch.org/aboutus>

⁶¹<http://globalmarch.org/ourpartners>

⁶²<http://wikileaks.org/cable/2007/11/07CHENNAI694.html>

⁶³<http://www.savengo.org/child.html>

⁶⁴ Showing the way-Trade Unions against Child Labour in India <http://www.ilo.org>

the plight of working children amongst villagers, NGO's and even government functionaries.

- 6.12 Bhartiya Mazdoor Sangh (BMS) has also undertaken two of IPEC action programmes on child labour through its affiliates, the Thakedar Kamgar Sangh (TKS) in Pune and the Andhra Pradesh Construction Mazdoor Sangh (APCMS) in Hyderabad. In each instance the BMS affiliates have implemented the non formal education programme directly, something which no other trade union has attempted so far. The Centre of Indian Trade Unions (CITU) campaign against child labour as on date covers 14 states and 9 industrial sectors. Through camps and pamphlets, posters and videos, CITU has been successful in generating awareness in its members throughout the country against child labour.
- 6.13 Thus, Industry and NGOs join hands in trying to eliminate child labour irrespective of form, location or industry. Their concerted efforts over the years have indeed eliminated child labour to a great extent and the practice is now limited to certain remote localities in the unorganised sector. Efforts are being taken continuously to identify those areas or pockets where child labour is being practised and to eliminate them immediately. Considering the size of the country and the huge population in India coupled with the low income levels, it may take some more time but India is definitely on an overdrive to bring an end to child labour.

CC. ETHICAL TRADING INITIATIVE

- 6.14 ETI retailers are using a range of approaches to try and identify home working in their supply chains.⁶⁵ ETI has issued home worker guidelines. There are two sets of guidelines - one for retailers and brands, and one for suppliers and contractors.
- 6.15 The ETI home worker guidelines set out the steps that company can take to help improve the working conditions of home workers in their supply chains. Identification of the home workers will serve as the initial step in the process of ensuring supply chain transparency and social compliance.

VII. THREAD/YARN SHALL BE REMOVED FROM THE LIST AS INCIDENCE OF CHILD LABOUR IS INSIGNIFICANT, IF NOT NIL

- 7.1 According to ILAB's Procedural Guidelines, ILAB must have a 'reasonable basis to believe that a problem of child or forced labour is 'significantly reduced if not

⁶⁵www.ethicaltrade.org/sites/default/.../Mapping%20homeworkers.pdf

eliminated' from the production of a particular good in the country in question for it to be removed.⁶⁶

- 7.2 Based on the information submitted herein including the detailed analysis of the new bibliography as submitted in this report and as provided by US DOL, it is clear that child labour is 'significantly reduced if not eliminated' and there is no reason to believe that Thread/Yarn are produced through child labour.

VIII. LEGAL ISSUES IN THE PUBLICATION OF THE LIST

DD. DEFINITION OF 'CHILD LABOUR'

- 8.1 In researching child labour, ILAB focused on children under the age of 18 years.⁶⁷ At the same time The TVPRA requires DOL's Bureau of International Labor Affairs (ILAB) to "develop and make available to the public a list of goods from countries that [ILAB] has reason to believe are produced by forced labor or child labor in violation of international standards."⁶⁸
- 8.2 In the DOL's September 2011 report issued under TVPRA, it is stated (paragraph 2.2) that child labour under international standards means all work performed by a person below the age of 15 years. In the said report, a reference has been made to C.138 (1973), the Minimum Age Convention of ILO. Article 2.3 of the Minimum Age Convention states 15 years. At the same time, Article 2.4 gives an option to Members whose economy and educational facilities are insufficiently developed to adopt a minimum age of 14 years. Indian laws adopt the basis that a person below 14 years is a child.
- 8.3 DOL apparently appears to think that a person below 18 years is a child. There seems a lack of convergence between the standard followed by the DOL and the standards which it says it intends to follow. It is difficult to see how despite accepting the definition of child as per international standards, it still sets 18 years as the age for its research purpose. Such an interpretation of the word 'child' will not be in accordance with the existing 'international standards'. This is a 'grey area' with no convergence between US and Indian positions. Indian laws that prohibit any person who has not completed the age of 14 years from any employment shall not be treated to be in violation of any international standard. If DOL has considered any person below 18 years of age to be a

⁶⁶ U.S. Department of Labour, "Notice of Procedural Guidelines for the Development and Maintenance of the List of Goods from Countries Produced by Child Labour or Forced Labour", 72 Fed. Reg. 73374 (December 27, 2007); available from <http://www.dol.gov/ILAB/programs/ocft/tvptra.htm>

⁶⁷ U.S. Department of Labor's, List of Goods Produced by Child Labour or Forced Labor, 2012 Report Required By the Trafficking Victims Protection Re-authorisation Act of 2005, September 26, 2012

⁶⁸ Codified as 22 U.S.C. 7112(b)(2)(C) as cited in U.S. Department of Labor's, List of Goods Produced by Child Labour or Forced Labour, 2012 Report Required By the Trafficking Victims Protection Re-authorisation Act of 2005, September 26, 2012, p. 1

child in arriving at its determinations, TEXPROCIL considers that it is not in accordance with the applicable international standard.

EE. DISCLOSURE OF COMPANY NAME

8.4 US DOL has failed to fulfill its obligations under the procedural guidelines as it has not redacted the source material to remove the names of industrial units and companies mentioned therein. Procedural Guidelines provides as below:

DOL's postings on its website of source material used in identifying goods and countries on the List will be redacted to remove company or individual names, and other confidential material, pursuant to applicable laws and regulations

8.5 The source material titled *Anti-Slavery International. Slavery on the High Street: Forced Labour in the Manufacture of Garments for International Brands. 2011* mentions the name of the companies. US DOL has not redacted to remove company or individual names.

FF. PUBLIC HEARING

8.6 Procedural Guidelines governing the maintenance of the TVPRA list provides as below:

In addition to reviewing information submitted by the public in response to this Notice, the Office will also conduct a public hearing to gather information to assist in the development of the List

8.7 Further, the procedural guidelines in sub-point B which reads about the procedure for maintaining the list provides as below:

The Office will undertake consultations with relevant U.S. government agencies and foreign governments, and may hold a public hearing for the purpose of receiving relevant information from interested persons.

8.8 However, US DOL has not conducted any public hearing before updating the TVPRA list. The list therefore does not possess the required legal sanctity under the United States law and the product Thread/Yarn should be removed from the list for this reason alone.

IX. CONCLUSION

9.1 TEXPROCIL fully shares the objectives and sentiments of the US laws that seek to bring to an end the pernicious practice of 'child labour' globally. At the same time, TEXPROCIL strongly believes that such a laudable objective shall not be achieved

through inappropriate means that may harm the industry without advancing the cause. For child labour to be eliminated, industry should thrive. If the industry suffers, general economic wellbeing of the labourers suffers; parents suffer loss of income and child labour will thrive. Therefore, one should be extra careful in choosing the tools to be used in eliminating child labour.

9.2 TEXPROCIL believes that inclusion of the two products in the EO 13126 list and TVPRA list are unjustified and unwarranted for the following reasons:

- (a) DOL appears to treat persons below 18 years as children. DOL also talks about international standards while defining child labour. Those standards refer to 14 or 15. Indian laws treat persons below 14 years children. If DOL had applied 18 years to evaluate the Indian conditions, it will not be in accordance with the international standards.
- (b) Bibliography used by DOL did not support the determination that there is a 'reason to believe' that Thread/Yarn are produced using child labour. There was no other credible evidence that would have helped DOL to arrive at a belief that goods might have been made using child labour.

9.3 For the above reasons itself the Thread/Yarn should be deleted from both the lists in question.

9.4 TEXPROCIL does not claim that there is no incidence of child labour at all in the industry. However, available evidence does not indicate significant incidence of child labour in the two industries. Available evidence indicates that incidence of child labour has declined over the years and appropriate steps are being taken by all the stakeholders in keeping child labour at insignificant levels.

9.5 Government, being the largest stakeholder in the welfare of Indian children, is performing its role in a responsible manner. Actions of the government include but are not limited to:

- (a) India has enacted legislation that provides for compulsory education to children and prohibits employment of children. Indian laws are consistent with international obligations. India is meaningfully enforcing such laws. The enforcement has helped in the reduction of the incidence of child labour. For instance, number of violations per 100 inspections conducted under the Child Labour Act has come down from 2.4 in 2005 to 1.07 in 2010.
- (b) Government of India strives to provide education and other social services to the children. Under National Child Labour Project, India is running special schools

to the children rescued from any employment. Close to 10000 schools with an enrolment of 500,000 children are being run under NCLP. Close to 705,000 children have been mainstreamed into regulation education system so far. Based on the experience till date, Government of India has planned new strategies under 12th Five Year Plan (2012-2017) that would enhance the impact of NCLP. The strategies include conducting a child labour survey in all the districts, creation of monitoring cells both at the national and state levels, tracking and monitoring of child labour, etc. These new steps would go a long way in eliminating child labour in India.

- (c) India has set up the National Commission for Protection of Child Rights to ensure protection of their rights.
- (d) Government of India is providing a multi-pronged approach by introducing various programs that would help the parents uplift their economic status and thereby avoiding the root cause of child labour. For example, SarvaSikshaAbhiyan (Education to all) and Midday meal Programs help children prefer to go to schools than to go for work. .
- (e) India is a party to the G-20 summits and is taking steps to foster employment and social protection to adult workers. Indian laws are in line with international standards.
- (f) State Governments are also actively involved in the implementation and monitoring of child labour legislation and related development programs.
- (a) Indian industry is moving towards being responsible corporate citizens by voluntarily undertaking not to employ child labour. A number of industry associations and apex bodies are playing an active role in this regard. TEXPROCIL and SIMA prohibits engagement of child labour by its members. It is trying to spread the message that child labour shall not be used.

9.6 NGOs and other Civil society organizations are playing a complimentary role in creating awareness, conducting surveys, and by actively participating in the identification of rescue of child labour wherever necessary. For example:

- (a) SAVE, an NGO based at Tirupur states that child labour had dramatically been reduced in Tirupur.
- (b) Major trade unions are also actively participating in elimination of child labour.

9.7 Thus, all stakeholders are making concerted efforts aimed at elimination of child labour. Therefore, despite the reported incidents of child labour in some factories, TEXPROCIL

submits that such incidents do not show any pattern or practice and that they are rare instances and that there is no significant incidence of child labour in Thread/Yarn industry in India.

For the above reasons, TEXPROCIL requests US DOL to delete the Thread/Yarn from India from both the lists.