



# Reply to US DOL Notice of February 2010-AEPC

Apparel Export Promotion Council  
9<sup>th</sup> April 2010

1. This refers to the US DOL Notice of 18 February 2010 wherein the US Department of Labour (US DOL) through the International Labour Bureau (ILAB) has requested for information vide notice published in Federal Register Vol. 75, No. 36 on Wednesday, 24 February, 2010. Information is requested on Child Labor, Forced Labor, and Forced or Indentured Child Labour in the Production of Goods in Foreign Countries and Efforts by Certain Countries to Eliminate the Worst Forms of Child Labor.
2. We understand that the US DOL will use the information so received to maintain the list of goods that the ILAB has reason to believe are produced by child labor or forced labor in violation of international standards under Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Section 105(b); the List of Products Produced by Forced or Indentured Child Labor under Executive Order 13126 of 1999 and the ninth Report by US DOL under the Trade and Development Act of 2000 (TDA) entitled "DOL's Findings on the Worst Forms of Child Labour".
3. We further understand that the information requested in the Notice offers an opportunity to present such information and data as shall conclusively rest any misplaced belief the US DOL might have regarding use of forced or indentured child labour for certain goods produced in and exported from India. The US DOL may, after perusal of the information submitted herein below, not include Garments from India on either of the two lists. The submission of certain additional data/information and update of the previously submitted information would certainly clear the misgivings that might have existed with regard to instances of forced or child labour used to produce garment products for imports into the USA.
4. The US DOL has requested for the following information:
  - a. The first request seeks information on the use of forced labor, child labor, and/or forced or indentured child labor in the production of goods internationally, as well as information on government, industry, or third-party actions and initiatives to address these problems.

- b. The second request seeks additional information on exploitive child labor, which DOL will use to produce an annual report on certain trade beneficiary countries' implementation of international commitments to eliminate the worst forms of child labor.
5. AEPC wishes to submit the information relating to paragraphs 4(a) and (b) under the Heading "Part I" and Part II" respectively.

## **PART I**

6. PART I includes some of the submissions made earlier in the context of the 2009 TVPRA and EO lists. Additional information is also being provided on government, industry, or third-party actions and initiatives to curb child labour:
  - 1) Background to Child Labor in India
  - 2) The Role of AEPC
  - 3) Role of Textiles & Clothing in India's Economy
  - 4) India's Presence in the US
  - 5) Prohibition of Child Labour in India
    - a. Constitutional Provisions and Implementing Legislations
    - b. The National Policy on Child Labour
    - c. National Child Labour Project
    - d. 11th Five Year Plan (2007-2012)
    - e. Sarva Shiksha Abhiyan
    - f. NCLP Schools
    - g. The Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour
    - h. Execution of the Protocol
    - i. Follow Up and Rehabilitation
    - j. International Obligations
    - k. International Agencies Recognize India's Progress
    - l. International Certification Programs
    - m. Mandatory Audit by the Buyer
    - n. Industry Efforts
    - o. Empirical Data to Showcase Zero Incidence of Child Labour in the Garments and Textile Industry
  - 6) High Court of Delhi's Directions for Formulating an Action Plan
    - a. Transitional Education

- b. Rescue Team and its Operations
  - c. The Execution of the Rescue Operation
- 7) Extraordinary Directions of the High Court

7. **Background to Child Labor in India:** There are a number of factors that could make children vulnerable to trafficking for labour. Some of these are at the family level and some others at the community or society level. While at the family level, the major push factors are poverty, illiteracy, dysfunctional family life, under-employment and a lack of income-generating opportunities for families, those at the community or society level are a general apathy or tolerance towards exploitative forms of child labour, lack of community support and social vulnerabilities. Considering the complexity of the problem, the Indian government and Industry has worked out a comprehensive multi-pronged approach to this problem. This covers not only the educational rehabilitation of these children to prevent them from entering and re-entering such exploitative labour situations but also various socio-economic causal factors such as poverty, illiteracy, lack of awareness etc. The measures adopted include economically empowering the families by covering them under various schemes of the Government, community mobilization and attitudinal changes through awareness generation, creation of suitable rehabilitation infrastructure, backed by unambiguous legislative provisions against offenders and stronger enforcement.
8. **The Role of AEPC:** To monitor and extend support to the export sector of the industry, the Apparel Export Promotion Council (AEPC) of India was incorporated in 1978. AEPC is the official body of apparel exporters in India that provides assistance to Indian exporters as well as importers/international buyers who choose India as their preferred sourcing destination for garments. The AEPC reports to the Ministry of Textiles, Government of India and facilitates exporters in compliance requirements.

AEPC is actively involved in ensuring zero incidence of child labour in Indian garment industry. AEPC is under the process of constructing a Common Compliance Code for its member manufacturing units, with special emphasis on the small scale units. The process is undertaken in consultation with international organizations like FLA, ILO, BSCI, ETI etc. and with the big retail brands like Nike, and Gap. The aim of this project would be to implement compliance code in all member units of garment industry of the country. AEPC recognizes the need for a Common Compliance Code because it can reduce the burden on manufacturers as each importing country has its own laws, regulations and monitoring agency and each buyer has its

own code of conduct. A Common Compliance Code relieves the manufacturers from undertaking individual assurances for each importing country and each buying company.

The Common Compliance Code ensures labour standards, age verification, parental consent and no involvement in any hazardous work. It is a must for the members to observe all legal requirements for work of authorized minors. Besides this the Council is engaged in many CSR activities towards skill development and better opportunities for youth through its education wings – Apparel Training and Design Centres and Apparel Institute of Management.

9. **Role of Textiles & Clothing in India's Economy:** India's textiles and clothing industry is one of the mainstays of national economy. It is also one of the largest contributing sectors of India's exports worldwide. At current prices, the Indian textiles industry is pegged at US\$ 61 billion, 64% of which services domestic demand.
10. The textiles industry accounts for 14% of industrial production; employs 35 million people and accounts for nearly 12% share of the country's total exports basket. Readymade Garments account for almost 45% of the total textiles export. Apparel and cotton textiles products together contribute nearly 70% of the total textiles export.
11. Considering the large scale employment the textile export units offer to the labour sector of India, any barrier that suspends such exports to the USA, because of an erroneous inclusion of garments on either of the two lists, based on a perceived belief, can have a strong socio-economic impact in India. The employment that this sector generates empowers families to enroll their children in schools. However, a fall in exports due to any erroneous inclusion of Indian textiles in the EO or TVPRA lists would have a direct impact on the jobs of such workers in the manufacturing units. Any deterioration in the financial condition of the workers in the textiles manufacturing units would be self-defeating.
12. As per the available WTO data, India's percentage share in global textiles and clothing trade was 4% in textiles, and 3% in clothing during the year 2008. In world exports, India ranked 7th in textiles and 8th in clothing.
13. **India's Presence in the US:** The United States is an important and established market for Indian textiles and clothing exports. About 30% of garments exported from India are to the US market. The USA's garments import capacity is worth \$63.10 billion a year as per year 2009. Imports from India in 2009 stood at about \$ 2.85billion and constituted 4.5 % of its apparel imports.

14. The top 5 products of India's apparel exports to the US includes men's or boys' knit shirts (\$415.65 mn), other cotton manufactures (\$403.33 mn), pile towels (\$362.96 mn), cotton sheets (\$312.84 mn) and blouses knit and non knit (\$606.80 mn).
15. During 2009, the total textile and apparel imports in the US were \$ 81 billion, of which apparel accounted for \$ 63.10 billion. Indian apparel exports during 2009 to US were \$ 2.85 billion which was about 7.39% lower compared to the previous year.
16. The Apparel Export Promotion Council (AEPC) of India has previously made detailed submissions to the US DOL requesting the US DOL and ILAB to consider removal of Indian Garments from the Executive Order 13126 List (EO List) and the Trafficking Victims Reauthorization Act List (TVPRA List).
  - a. The first of such submissions was made on 10.12.2009 (Comment Tracking No. 80a67dc0) in response to the Notice of Initial Determination dated 11.09.2009 published in Federal Register Volume 74, Number 175.
  - b. AEPC further submitted information and data on 22.01.2010 elaborating on various efforts undertaken by the Government of India, in association with AEPC and regional trade organizations to curb the menace of child labour. The 22.01.2010 submissions were made in response to the notice published in Federal Register, Vol. 72, No. 247.
17. Detailed submissions were made to the US DOL in the context of the 2009 lists, the summary of which is given in the following paragraphs.
18. **Prohibition of Child Labour in India:** In India, the post-independence era has seen an unequivocal commitment of the government to the cause of children or forced labor through constitutional provisions, legislation, policies and programs.
  - a. **Constitutional Provisions and Implementing Legislations:** The Constitution of India in Article 39 of the Directive Principles of State Policy pledges that "*the State shall, in particular, direct its policy towards securing ... that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength, that children are given opportunities and facilities to develop in a healthy manner, and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation, and against moral and material abandonment.*"

The Constitution of India, through various articles enshrined in the Fundamental Rights and the Directive Principles of State Policy, lays down that the State shall provide free and compulsory education to all children of the age six to 14 years. Article 21 A states that every child has the Right to Education and the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine. It further provides that no child below the age of 14 years shall be employed to work in any factory or mine. The same has now been enacted by the legislature as the Right to Education Act, 2009 and will be implemented throughout India from April 2010. The legislation earmarks 25 percent of all seats at primary school level for children from the lower economic strata.

Article 24 of the Constitution prohibits employment of children in factories, etc. It states that no child below the age of fourteen years shall be employed in work in any factory or mine or engaged in any other hazardous employment. The Child Labor (Prohibition & Regulation) Act, 1986 of India prohibits the employment of children below the age of 14 in factories and mines. India has also announced a National Policy of Child Labor as early as 1987, and was probably the first among the developing countries to have such a progressive policy.

- b. **The National Policy on Child Labour:** The National Policy on Child Labour enunciated in 1987 laid down the following action plan for tackling the problem of child labour:
- A legislative action plan
  - Focusing and convergence of general development programmes for benefiting children wherever possible, and
  - Project-based plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour
- c. **National Child Labour Project:** Government had initiated the National Child Labour Project (NCLP) Scheme in 1988 to rehabilitate working children in 13 child labour endemic districts of the country. Its coverage has been increased progressively since then to 250 districts in the country in the 10th Five Year Plan (2002-2007). The five year plans prepared by the Planning Commission of India sets the agenda on various issues related to development and growth for the country. The Government plans to cover all the districts of the country in which there is an incidence of child labour during the 11th Five Year Plan (2007-2012).

- d. **11th Five Year Plan (2007-2012):** Giving due consideration to the specific needs of the migrant child labour, one of the proposals given for the 11th Plan includes a provision of residential schools in the metropolises and other big cities under the NCLP Scheme, children are withdrawn from work and put into special schools, where they are provided with bridging education, vocational training, mid-day meals, a stipend of Rs. 100 per month, health-care facilities etc. Under the Scheme, funds are given to the District Collectors for running special schools for child labour.
- e. **Sarva Shiksha Abhiyan:** To ensure greater reach combined with full accountability, many of these schools are run by NGOs in the district. Linking the child labour elimination efforts with the Scheme of Sarva Shiksha Abhiyan (SSA) of the Ministry of Human Resource Development, Government of India, efforts are made to ensure that children in the age group of 5-8 years get directly admitted to regular schools and that the older working children are mainstreamed to the formal education system through special schools functioning under the NCLP Scheme.
- f. **NCLP Schools:** By 2008 there were 8,887 NCLP schools being run in the country with an enrolment of 3.4 lakhs children and 4.5 lakhs working children already been mainstreamed to regular education under the NCLP Scheme. It is a challenge to retain the rescued child laborers in such schools. Due to reasons ranging from economic and financial adversity some children do not always complete their stints at the NCLP schools
- g. **The Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour:** The Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour (The Protocol) was issued by the Ministry of Labor and Employment in May 2008 to guide state and district-level authorities and NGOs, and expand the central government's list of occupations that are banned from employing children. The Protocol provides steps to be taken by designated agencies to collect information on instances of child labor and prepare for rescue operations. It also states the basic orientation required for preparation for such operations and immediate steps required post-rescue. The Rescue Team consists of a) The Department of Labour; b) The Police; c) The Municipal Corporation or the local self government like the Zilla Parishad, panchayats etc, as the case maybe; d) Social Welfare Officer/Probation Officer/DM's nominee/CWCs; and e) NGOs, social organizations, trade unions or other responsible citizens; f) Doctor with first aid kit, and



- g) Lady Police/volunteers when rescuing girls. The Protocol is sensitive to the conditions in which such child labor may be made to perform and assures that rescued children are not harmed during the operation.
- h. **Execution of the Protocol:** After successful completion of the rescue operations the children undergo a medical examination and a fresh investigation commences to source their families and homes. These rescued children are produced before the Child Welfare Committee (CWC) and given temporary shelter before they are transported and restored to their families. Rehabilitation of such rescued children is the responsibility of the District Collector to ensure that they are not sent back to the exploitative employers. The Protocol lists how various agencies like the police, the department of labor and employment, education department and municipal authorities are jointly and severely responsible for the rehabilitation and restoration of the rescued children.
- i. **Follow Up and Rehabilitation:** While such instances remain rare, NGO's and enforcement agencies remain vigilant, whenever bonded child labourers are rescued from forceful employers in the unorganized sectors, the provisions of the Bonded Labour (System) Abolition Act, 1976 entitle them to 'release certificates' alongwith Rs. 20,000 as rehabilitation package. This step is taken after the Rescue Team produces them before the CWC or the Additional District Magistrate (ADM). Such prompt action certifies their previous status of bonded labour and assures that they are not forced into the same milieu.
- j. Various NGO's keep track of the rescued children in schools and maintain reports on their progress. If any child goes missing and his or her absence in school is taken cognizance of and these NGO's track those to reinstate them 'back2school' in the rehabilitation schemes.
- k. For example, in the State of Tamil Nadu, members of an NGO called the Village Volunteer Force go around villages and collect data about missing students from classrooms. The volunteers find out reasons from the school and families, and this information is keyed in at the taluk computer centres. Through the Tamil Nadu State Area Network the data is made available to the district administration. The Collector then takes action to solve the problem. The 'back2school' software links all departments concerned such as the tahsildar's office, the district police and administration. Such efforts are recognized by the UNICEF Child Protection Programs in India.

- i. **International Obligations:** The Government of India is a signatory to all relevant International Conventions governing labor conditions. India has ratified on December 2, 1992, the Convention on the Rights of the Child which came into force in 1990. This ratification implies that India will ensure wide awareness about issues relating to children among government agencies, implementing agencies, the media, the judiciary, the public and children themselves. The Government's endeavor is to meet the goals of the Convention and to amend all legislation, policies and schemes to meet the standards set in the Convention.
- m. India is also a signatory to the World Declaration on the Survival, Protection and Development of Children. In pursuance of the commitment made at the World Summit, the Department of Women and Child Development under the Ministry of Human Resource Development has formulated a National Plan of Action for Children. Most of the recommendations of the World Summit Action Plan are reflected in India's National Plan of Action.
- n. India's policy on child labor has evolved over the years against this backdrop and its present regime of laws relating to child labor has a pragmatic foundation, consistent with the International Labor Conference resolution of 1979. This ILO resolution calls for a combination of prohibitory measures and measures for humanizing child labor, wherever such labor cannot be eliminated altogether in the short term. It should also be mentioned that India is second to none in its commitment to and in the upholding of the core international labor standards such as freedom of association, collective bargaining and non-discrimination.
- o. **International Agencies Recognize India's Progress:** The 2009 UNHCR Report (prepared by the US Department of State) also recognizes these efforts by noting, "Indian government authorities made significant progress in law enforcement efforts against sex trafficking and forced child labor during the year. India also prohibits bonded and forced labor through the Bonded Labor (Abolition) Act of 1976, the Child Labor (Prohibition and Regulation) Act of 1986, and the Juvenile Justice Act of 1986."
- p. Further, in its State of the World's Children Report 2009, UNICEF points out that the number of children enrolled in primary school, regardless of age, expressed as a percentage of the total number of children of official primary school age for males is 90% and for females is 87%.

- q. **International Certification Programs:** It is important to note that India's contribution to international trade in the garments sector could not be achieved if the Indian industry were not complying with the requisite standards of world production units and common codes of conduct and corporate social responsibility. Further, as pointed out above, Indian Government is committed since independence to eradicate any form of forced or indentured child labor and has taken several steps in this regard.
- r. Besides the serious efforts of the Government, industry too has taken several steps to ensure that its products are free of any forced or indentured child labor. This also flows from the fact they are members of several international organizations/institutions which independently certify that they do not use forced or indentured child labor. In fact, when supplying products to the United States, manufacturers also ensure that the workers are over 18 years so that they meet with the criteria in the US as is mandated by the buyers.
- s. Certain certification organizations provide services of stringent checking to ensure that basic compliance with labor conditions are met by manufacturers producing goods for the international markets. Such compliance standards are common and irrespective of national requirements.
- t. The Worldwide Responsible Accredited Production (WRAP) is a not-for-profit organization dedicated to promoting ethical, humane, and lawful conditions and practices in manufacturing facilities all around the world. The WRAP program is the world's largest facility certification program mainly focused on the apparel, footwear and sewn products sectors. Facilities receive a certification of six months to one year based on compliance with the 12 WRAP Principles. The Principles are based on generally accepted international workplace standards, local laws and workplace regulations which encompass human resources management, health and safety, environmental practices, and legal compliance including import/export and customs compliance and security standards. WRAP mandates the prohibition of forced and child labor.
- u. Another compliance standard, SA8000, is a global social accountability standard for decent working conditions, developed and overseen by Social Accountability International (SAI). SA8000 is based on the UN Universal Declaration of Human Rights, Convention on the Rights of the Child and various International Labour Organization

(ILO) conventions. Amongst others, SA8000 covers the following areas of accountability:

- **Child labor:** No workers under the age of 15; minimum lowered to 14 for countries operating under the ILO Convention 138 developing-country exception; remediation of any child found to be working
  - **Forced labor:** No forced labor, including prison or debt bondage labor; no lodging of deposits or identity papers by employers or outside recruiters.
- v. **Mandatory Audit by the Buyer:** Another aspect of certification comes from the buyer. All major buyers in the US ensure that there is a proper audit of the manufacturing process by the supplier in India. One important component of the certification is the absence of child labor in the production process. All suppliers to the US market report that they are audited by their buyers. The international firms that are engaged by the buyers to audit the Indian suppliers are of global repute and their mandatory compliance requirements are very strict thereby ensuring that all Indian suppliers meet with the regulations of the United States for supplying their goods.
- w. Given the mandatory audits by the buyers and the certification process, AEPC would like to point out that if any evidence of forced/indentured child labor was found, these agencies would have denied certificates to the Indian manufacturers, which has not been the case, thereby proving the point that there is no case of child labor in the Indian apparel export sector.
- x. The agencies to certify compliance do not work with the industry themselves. Third-party auditors are appointed to conduct audits and supply fair evidence of working conditions. These audits cannot be tampered with. For example, employees are randomly selected and privately interviewed to see if their reported facts support or conflict with what is reported by the manufacturer.
- y. **Industry Efforts:** The garment industry of India recognizes the importance of complying with international regulations to remain an important source of supply in the US market. Therefore, the industry ensures that it understands the US regulations and makes every effort to meet the requirements of the US Government's laws and regulations. Continuous efforts are made by the industry to operate at the highest level of international standards. It is imperative for industry to meet the compliance requisites of

the buyer's jurisdiction to preserve their markets. Members of the Indian garment manufacturing industry, therefore, have voluntarily enrolled into stringent certification programs whereby resting buyer apprehensions regarding labor and environmental violations. The garment export industry is an organized body of ethical traders. The National Policy for Child Labor is stringent and provides for clear guidelines prohibiting employment of children at any level. The policy is being implemented and the results are seen with higher enrollment rates in schools throughout the country. Industry makes efforts at three levels- at the apex national level like AEPC, at the regional level and at the company level takes adequate steps to ensure that child or forced labour is not used in any organized manufacturing activity. In case of export oriented organizations these rules are followed and adhered to in a stricter sense.

- i. Illustratively, the garment manufacturer-exporters in the Indian district of Tirupur, Tamil Nadu operate within the outlines of the Social Accountability International's (SAI) SA 8000 Standards. To achieve the standards required by the SA 8000, industry members collaborate with local non-governmental organizations (NGO).
- ii. The SA 8000 requires and the manufacturing companies fulfill, amongst others, the following imperatives:
  - (i) The company shall not engage in or support the use of child labour
  - (ii) The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for remediation of children found to be working as child labour and shall provide adequate support to enable such children to attend and remain in school until no longer a child.
  - (iii) The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for promotion of education for children and young workers who are subject to local compulsory education laws or are attending school, including means to ensure that no such child or young worker is employed during school hours and that combined hours of daily transportation (to and from work and school), school, and work time does not exceed 10 hours a day.
  - (iv) The company shall not expose children or young workers to situations in or outside of the workplace that are hazardous, unsafe, or unhealthy.

z. Such efforts are directed towards maintaining the status quo on zero incidence of child labor in the Indian garments industry. The social trend of employing children at work places has been extinct for over a decade in India. Recent literature and data showcases how the Government of India has brought about the change.

aa. **Empirical Data to Showcase Zero Incidence of Child Labour in the Garments and Textile Industry:** The Government of India, Ministry of Labour and Employment appointed the Labour Bureau to conduct Occupational Wages Surveys. These surveys are conducted after regular intervals and cover periods of five years and up. The need for such survey was to undertake a Wage Census and to collect a reliable and accurate statistical data on occupational wage rates.

bb. The Occupational Wage Survey's Sixth Round commenced in 2002 and the subsequent Report was published in 2008. Covering over six years, the Report on Textile Garments Industry presents percentage distribution of work force in textile garments industry by sex and age of the workers employed. The report considers every member of the organized garments manufacturing sector in the country. Out of the six major producing Indian States and others no one reports employing any children forcefully or willfully. No incidence of child or forced labour is reported for the period of survey, i.e. 2002-2008. The Table from the Sixth Round of the Occupational Wages Survey representing the zero incidence of child labor is reproduced below:

**PERCENTAGE DISTRIBUTION OF WORK FORCE IN TEXTILE GARMENTS INDUSTRY BY SEX-AGE**

Sl. No.	Stratum	Estimated Total No. of Workers	Percentage of Workers			
			Men	Women	Adolescents	Children
1	2	3	4	5	6	7
1	Haryana	35473	85.04	14.96	-	-
2	Delhi	28596	80.81	19.19	-	-
3	Uttar Pradesh	28206	95.46	4.54	-	-
4	Maharashtra	16698	81.33	18.67	-	-
5	Karnataka	182888	21.36	78.64	-	-
6	Tamil Nadu	75804	15.58	84.42	-	-
7	Residual	25687	60.73	39.27	-	-
<b>Textile Garments Industry</b>		<b>393352</b>	<b>40.74</b>	<b>59.26</b>	<b>-</b>	<b>-</b>

**19. Further Submissions:** In continuation to the aforesaid submissions to the US DOL, AEPC would like to provide the following additional information which would prove beyond an iota of doubt the serious commitment of the Indian authorities including the judiciary to ensure that even the stray incidents of forced or indentured child labour are completely eliminated.

a. **High Court of Delhi's Directions for Formulating an Action Plan:** Considering the sensitivity of the issue, the Delhi High Court took suo moto cognizance of certain media reports suggesting the existence of certain stray incidents of child labour. The Court passed an order dated 24.09.2008 to constitute a committee by the National Commission for Protection of Child Rights (NCPRC) comprising of various members, from the NCPRC and representatives from the departments of Government of National Capital territory (NCT) of Delhi, including the departments of Labour, Social Welfare, Education, Revenue and Health. The Commissioner of Police and the Commissioner of Municipal Corporation of Delhi were also part of the Committee. This Committee was directed to formulate an action plan to eliminate all forms of child labour in New Delhi. The plan so formulated is called the "Delhi Action Plan for Total Abolition of Child Labour" and is presently under implementation. A copy of the said Action Plan is attached as Annex 1. The acceptance of Delhi Action Plan for Total Abolition of Child Labour makes it mandatory for executive authorities to take compulsory steps as prescribed by the Action Plan. The following are the main features of the Action Plan:

- i. **Transitional Education:** Transitional Education Centre under the National Child Labour Plan or the Non-Residential Bridge Course under the Sarv Siksha Abhiyan, functions for children in the 9-14 age group. These centers encourage child workers to quit their employment and enroll themselves in schools. The role of the centers will come to an end, once the children are motivated to withdraw themselves from work and get enrolled in schools.
- ii. **Rescue Team and its Operations:** The most important role is of the Rescue Team for Rescue Operations. The Task Force is constituted of various members including:
  - The Representative of the Department of Labour in the District, not below the rank of Assistant Labour Commissioner;
  - Sub-Divisional Magistrate concerned;
  - The Head/Nodal Officer of Special Juvenile Police Unit (SJPU);
  - District Social Welfare Officer/District Child Welfare Officer;
  - Deputy Education Officer (Zonal) of MCD (wherever applicable);

- The Senior-most Officer of the Factory Licensing Department of MCD (wherever applicable);
- A Member of the concerned CWC (to be nominated by its Chairperson);
- Centre Coordinator of CHILDLINE having jurisdiction over the area;
- At least one NGO/VO actively involved in the rescue and rehabilitation of child labour.

iii. **The Execution of the Rescue Operation:** The entire rescue operation is conducted in two parts. The first being the preparation, which includes receiving information and verifying the facts accordingly; debriefing the Task Force for the operation; assigning responsibilities and clarifying procedures to be followed during the Rescue Operation. The Action Plan provides for procedures post-rescue also. These include the interim care of the rescued children through a medical examination; organized legal proceedings before the Child Welfare Commissioner; collecting and evidence from the place of rescue and preparation of the charge-sheet. Special guidelines for the repatriation, rehabilitation and social reintegration of the children are also detailed in the Action Plan.

b. **Extraordinary Directions of the High Court:** It is pertinent to note that while accepting the Action Plan, the Delhi High Court made the following observations which establish the seriousness and concerns of the Indian government as well as the judiciary to the issue:

*"On a perusal of CLPRA, 1986, we are of the view that under the said Act, only child workers employed in scheduled occupation and processes can be liberated and children employed above the age of 14 years cannot be rescued.*

*However, in our view, the Juvenile Justice (Care and Protection of Children) Act, 2000, would apply to children between the age of 14 and 18 years as well as to those children employed below the age of 14 years in non-scheduled occupation and processes. Consequently, the said children would be governed by the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as Bonded Labour System (Abolition) Act, 1976, if applicable and not by CLPRA, 1986, as stipulated in the Delhi Action Plan prepared by the National Commission.*



*The responsibility of lodging a police complaint against an employer employing child labour would lie with the Delhi Police.*

*It is further clarified that the recovery of fine of Rs.20000/- as stipulated by the Supreme Court in M.C. Mehta's case will not have to await a conviction order of the offending employer. The said amount would be recovered as arrears of land revenue and the said amount would be utilized for the educational needs of the rescued child even if the child has subsequently crossed the age of 14 years.*

*We accept the Delhi Action Plan which provides a detailed procedure for interim care and protection of the rescued children to be followed by Labour Department as prepared by the NCPCR."*

- c. It can be seen from the above-cited directions of the Delhi High Court that forced or indentured child labour has to be eliminated not in the limited legal sense but also in its widest social perspective. Such judicial pronouncements by the High Court of Delhi, which are obligatory for the executive authorities, sets the trend for a strong jurisprudence against even the stray incidences of child labour in India.

## **PART II**

- 20. Additional information on exploitive child labor to produce an annual report on certain trade beneficiary countries' implementation of international commitments:** Garments from India do not avail any benefits under the Generalized System of Preferences and therefore, AEPC would not be able to provide any assistance to the US DOL. However, it may be mentioned that the implementation of India's international commitments towards eliminating child labour are recorded by various international agencies and there has not been any instance of the US Government withdrawing GSP benefits from any Indian product in the past on grounds of using forced or indentured child labour.

## **Conclusion**

21. In view of the aforesaid in Parts I and II, it is apparent that the US DoL has erroneously listed garments from India in the 2009 list based on a bibliography which did not support the inclusion of these products on the list. The Bibliography of 2009 is based on stray incidents of child labor which cannot be construed as an indicator or evidence of significant incidence of child labor in the country. Nevertheless, the Indian government and industry, as is evident from the aforementioned paragraphs in this note, is taking all measures to ensure that even the possibility of such stray incidents is completely eliminated.
  
22. For the foregoing reasons, AEPC would like to impress upon the US DOL that garments from India may not form a part of the EO, as well as the TVPRA Lists for the year 2010. AEPC would request for a hearing to explain the above submissions to the US DoL.

## ANNEXURE 1

### **ACTION PLAN FOR ABOLITION OF CHILD LABOUR IN DELHI**

#### **Part-I: Background**

##### **1. Constitution of the Committee:**

Pursuant to the Order of Hon'ble High Court of Delhi dated 24.9.2008, issued in the WP (Crl.) 2069/2005, WP(C) 4125/2007 and WP(C) 4161/2008, a Committee had been constituted by the National Commission for Protection of Child Rights (NCPCR) vide OM dated 3.10.2008, comprising of the following:

- |         |  |   |             |
|---------|--|---|-------------|
| (i).    | Chairperson, NCPCR, Delhi                    | - | Chairperson |
| (ii).   | Secretary, Labour Department, GNCTD          | - | Member      |
| (iii).  | Secretary, Social Welfare Department, GNCTD  | - | Member      |
| (iv).   | Secretary, Education Department, GNCTD       | - | Member      |
| (v).    | Secretary, Revenue Department, GNCTD         | - | Member      |
| (vi).   | Secretary, Health Department, GNCTD          | - | Member      |
| (vii).  | Commissioner of Police, Delhi                | - | Member      |
| (viii). | Commissioner, Municipal Corporation of Delhi | - | Member      |
| (ix).   | Member Secretary, NCPCR                      | - | Convener    |

**1.1** The Committee had the following mandates:

- a)** To formulate a detailed action Plan for strict enforcement and implementation of the Child Labour (Prohibition & Regulation) Act (CLPRA), 1986 and other related legislations;

- b)** To suggest measures for timely recovery and proper utilization of funds collected under the Direction dated 10.12.1996 of Supreme Court in the case M.C. Mehta Vs. State of Tamil Nadu;
- c)** To suggest measures regarding education, health and financial support to the rescued children;
- d)** To suggest measures for effective coordination within various Departments/authorities of the Government of NCT of Delhi (GNCTD) as well as with other States from where children are brought to work in Delhi.

## **2. Consultation Process**

### **2.1 Meetings of the Committee**

- (i)** On 10<sup>th</sup> October 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Labour Secretary, Director & Joint Director, Department of Women and Child Development (DWCD), Director (Social Welfare), Deputy Secretary (Health) from GNCTD, Joint Commissioner of Police, Additional MHO (School Health Scheme) of MCD, ADM (North Delhi District), and Member Secretary & Registrar, NCPCR.
- (ii)** On 10<sup>th</sup> November 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Director (Social Welfare), representative of Department of Health, Joint Secretary & Joint Labour Commissioner from GNCTD, Director (Education) & Deputy MHO from MCD, ACP (Delhi Police) and Member Secretary, NCPCR.

- (iii)** On 12<sup>th</sup> December 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Secretary & Director (DWCD), Secretary (Education), Joint Secretary (Health), Joint Labour Commissioner from GNCTD, SDM (Sadar Bazar), JCP/DCP/ACP (CAW) from Delhi Police, Additional Commissioner & Deputy MHO from MCD and Member, Member Secretary & Registrar (NCPCR).
- (iv)** On 22<sup>nd</sup> February 2009 at India Habitat Centre, presided over by the Chairperson, NCPCR, and attended by the Secretary (Education), Additional Secretary (Health), Joint Labour Commissioner & Joint Director (DWCD) from GNCTD, Additional Commissioner and Director (Education) from MCD, Joint Commissioner of Police (CAW), ADM (North) & SDM (Sadar Bazar), Members, Member Secretary, Registrar (NCPCR) , among others.
- (v)** Meeting with Resident Commissioner and Joint Labour Commissioner, Bihar at NCPCR Conference Room on 4<sup>th</sup> March 2009 attended by Chairperson, NCPCR and Member Secretary (NCPCR), among others.

## **2.2 Views received from concerned Government Departments/ Authorities/Petitioner:**

Suggestions/views/opinions and relevant information had been solicited from the departments/authorities concerned of GNCTD as well as from the petitioners and experts on the matter. Response was received from department of Labour, WCD, Education (SSA) Health, MCD (Education & Factory Licensing Department), Delhi

Police, Chairpersons of CWC (Lajpat Nagar and Kingsway Camp) and Save the Childhood Foundation (one of the Petitioners).

### **3. Action Research/Survey**

**3.1** NCPCR team visited three different regions of Delhi to estimate (i) the magnitude of out-of-school children, child labour and their work profile; and (ii) availability of support and infrastructure through government programmes as well as non-governmental organizations (NGOs). During the visit the team met community members, children, school authority, NGOs, shop owners, employers, officials from WCD, police, etc. The areas visited were:

1. Jahangir Puri (North West);
2. Kotal Mubarakpur/ Shahpurjat (South);
3. Seelampur (North East)

**3.2** The profile of the out-of-school children in Jahangir Puri (North West District) is provided in **Annexure A**.

## **Part-II: Delhi Action Plan for Total abolition of Child Labour**

### **4. Profile of Child Labour and Out-of-school Children in Delhi**

**4.1** It is difficult to arrive at an estimate of number of out-of-school children in Delhi. According to one estimate, Delhi has 2831947<sup>1</sup> numbers of children in the age group of 6 to 13 years, of whom 2747523 are school going, and the rest

---

1 MHRD/Social and Rural Research Institute (SRI) Survey on SSA, July –October, 2005.

43735 (3.34%) are out-of-school. There are other estimates of out-of-school children. For example, the survey conducted by Samajika Suvidha Sangam (Mission Convergence Directorate) shows that there are 643315 children in 7-17 years and of whom 450402 children are not in schools. The number of out-of-school children in the age group of 6-14 years in North West District according to SSA was 7219<sup>2</sup> (whereas, the door to door survey conducted by NCPCR in 9 slums of Jahangir Puri was 2929. Perhaps this discrepancy in data is due to the fact that names of children who are out-of-school and school dropouts may be continuing in the attendance registers as enrolled. All such out-of-school are to be considered as child labourers or potential child labourers who would sooner than later join the labour pool.

**4.2** As per the Petitions of Social Jurist and Save the Childhood Foundation as well as the Counters (especially Deptt. of Labour, GNCTD) filed in this Case alongwith the lists of children ,the areas of concentration of child labour in Delhi are: Mitapur, Jetpur, Sangam Vihar, Khanpur Extension, Khanpur Village, Tuglagabad Village, Hamdard Nagar, Garhi Lajpat Nagar, Uttamnagar, Kotla Mubarakpur, Kureji, Arampark, Brijpuri, Jagatpuri, Zafrabad, Wazirabad, Jahangir Puri, Seelam Pur, etc. There is also evidence of such children being mainly from Bihar, Jharkhand, West Bengal and Uttar Pradesh.

## **5. Strategies**

**5.1** The child labour profile in Delhi are of two types- (i) Out-of-school children living with their parents in Delhi and (ii) Children who have come from other

---

<sup>2</sup> Household Child Census, survey done by UEE Mission (State Project Office of SSA, Delhi), Dept of Education, Govt. of Delhi, 2008.

States leaving their family behind ( as shown in para 4 ) Hence, the Delhi Action Plan for total abolition of child labour would have two strategies. The first strategy is an 'area based approach' for elimination of child labour. In this strategy all children in the 6-14 years age group in an identified area will be covered, whether they are in school or out-of-school. All children out-of-school would be regarded as engaged in some form of work or the other and being deprived of their right to education. Children in schools are to be monitored, so that, they do not dropout and join the labor pool.

Commission proposes that the 'area based approach' be initiated as a pilot in North West district.

**5.2** The second strategy is an approach to be adopted mainly in the context of migrant child labour who are away from their families and have little or no linkages with the community. It involves a process of identification, rescue, repatriation and rehabilitation of child labour. It is proposed that this strategy is implemented on a pilot basis in South Delhi District and where there is a presence of a large number of migrant child labours in all other areas where information is available about the prevalence of such child labour.

**5.3** While the two strategies are different, it must be mentioned that they are not mutually exclusive. Should contingencies so demand combinations of both strategies are necessary. The component of enforcement of Child Labour (Prohibition and Regulation) Act (CLPRA), 1986 and Delhi Shops and Establishment Act, 1954, Juvenile Justice (Care and Protection of Children) Act (JJA), 2000 and the Bonded Labour System (Abolition) Act (BLSAA), 1976 will be applicable to both the strategies. It will be a coordinated effort of all concerned



departments/authorities responsible for enforcement, such as, Labour Department for CLPRA, SDM and Revenue officials for BLSAA and WCD, CWC and Police for JJ Act.

## **6. Components of 'area based approach'**

### **6.1 Objectives**

- i) To build consensus on the issue of total abolition of child labour through Universalisation of Elementary Education.
- ii) To enroll all children in 6-14 years in schools and ensure their retention in schools.
- iii) To withdraw children from work and enroll them into full time formal schools.
- iv) To prepare older children withdrawn from work and integrate them to classes according to their age through programs of bridge courses and accelerated learning.
- v) To build processes for ownership of the programme by all the stakeholders.
- vi) To build local institutions for protection of child rights.

### **6.2 Activities**

#### **i) Mobilisation and Consensus Building**

(a) There is the need for creating a norm within the community that no child should work. Government must be seen as unequivocally endorsing this stand. Various methods of mobilisation to be adopted with the support of community for creating a visibility for the agenda of protection of child rights. Some of them are as follows:

- Holding of public meetings, rallies, marches, utilizing every public function to highlight the child rights issue.
- Orientation for members of local institutions, youth groups.
- Induction of teachers through trainings, provision of support structures in the wards
- Street theatre, child to child campaigns and use of children as resource persons.
- Petitions to the government by the community, and School Vikas Samiti (SVS) for enhancing school infrastructure.

**(b)** The mobilization process must culminate in creation of local institutions which would eventually, take up the issue of protection of child rights. Thus the atmosphere building exercise needs to be linked to the processes of committees and Forum of Liberation of Child Labour (Youth and Teachers' wing) strengthening of Vidyalaya Kalyan Samities. Care also needs to be taken to see that these committees meet regularly to discuss the issue of children out-of-schools and draw up a plan for action to bring them back to schools. It is also to be seen that the core group of these committees have members who can play a decisive role in building a consensus.

**(c) Action Points**

- Youth groups, Ward Members and Municipal Councilors, etc. at the local level to be involved in the mobilization programme.

- Government to prepare a campaign strategy either through WCD or Education Department.
- Clear messages on child rights, anti-begging, saying no to child labour to be publicised widely.
- The Bhagidari Scheme of Delhi should make it mandatory to include in its guidelines the notification banning child labour in domestic, shops and establishments. All Resident Welfare Associations (RWAs) should notify the same in prominent places and it should be part of permanent display in the notice board of the RWA. Hoardings declaring the same should also be provided in markets and public parks, including within housing societies.
- Popular mediums like FM channels, DD should repeat the message of right to education and total abolition of child labour, especially the notification banning children in domestic, shops and establishment.
- SSA should carry out campaign to enroll all children in schools, including children in begging, vending of goods and newspapers in the streets and traffic junctions.
- Messages on whom to contact for specific issues and procedures for the same

## **ii) Reaching out to the Children**

**a) Transitional Education Centres (TEC)<sup>3</sup> or Non-Residential Bridge Course (NRBC)<sup>4</sup> Centres:**

The children in the 9-14 years age group are to be enlisted in these centres. The nearest school headmaster should be made in charge of the centre. Out-of-school children are given confidence to study through the centres and in the mean time they are motivated to abandon work and join into schools. The centres also become forums for assertion of rights especially of the girl children. Many a time these girls share information about their marriages being fixed and seek help for breaking the proposed marriages. The role of the centres will come to an end, once the children are motivated to withdraw themselves from work and get enrolled in schools.

**Action Points**

- Setting up of TEC's/ NRBC- Each center to cover 40 numbers of children at any given point in time under NCLP or SSA.
- 4-5 NRBCs are to be set up for every MCD/Government school or 5 NRBCs in one slum. These centers are to be linked to the schools.
- Government to draw up the total number of NRBCs required and cover all out-of-school children through NRCBCs in North West district.
- Children currently attending AIE centres, RBC centres, Mobile schools and Khulja Sim Sim projects must all be mainstreamed into formal schools.

---

<sup>3</sup> TEC: Under NCLP

<sup>4</sup> NRBC: Under SSA

- The pilot exercise of NCPCR shows that 40 NRBCs are required for the 9 slums in Jahangir Puri area alone.

### **b) Short Term Camps (3 days)**

About 100 children, who have never been to school, from 3 to 4 wards/slums, are brought together for a short period camp (3 days) to learn and draw strength from each other. They are identified in the process of campaigns and door to door social mobilization. In the process they gain confidence to pressure their parents and realize that they are not alone in their struggle. There is the need to track the adjustment of time by their parents in terms of sharing the work of the children during camp time. These evidences are used as arguments to discuss with parents while motivating them to send their children to schools.

### **Action Point**

- One short term camp for one slum if it is large and a cluster of slums if they are small.
- Government to draw up a list of slums in North West and ear mark locations for such short term camps.
- The pilot in Jahnagir Puri has shown that 7 such short camps can be held for children.

### **c) Residential Bridge Course Camps (RBC) (10 months to 16 months)**

Older children withdrawn from work attend the residential bridge course camp where they are prepared to join schools in an age appropriate class. These camps not only convert the children but prepare the parents, teachers and community at

large into accepting the norm that children ought to be in schools. The camps also serve the purpose of mobilization, training and resource needs of the programme. They demonstrate the efficacy of the arguments on child labour and related issues.

### **Action Points**

- Setting RBCs for the North West District with 150 to 200 children.
- Identifying available public spaces for conducting RBCs.
- The pilot of NCPCR in Jahangir Puri shows that 4 RBCs (2 for Girls and 2 for Boys) are required for the 9 slums alone.

### **d) Retention of children in schools and prevention of child labour**

All children in the 6-8 years age group are to be directly enrolled and retained in schools. Care must be taken to ensure that every child that is in school continues to do so without any disruption until she completes class ten.

### **Action Points**

- The NRBC volunteer must also play the role of social mobiliser to ensure that children attend schools regularly. Wherever the TECs or NRBCs are closed due to children from the centers getting mainstreamed it is necessary that the volunteers of NRBC are continued with the program to follow up with issues of retention of children.

- Formal schools to introduce remedial courses for school dropouts and older children
  - Orientation to school teachers on first generation learners, school drop-outs and bridge courses for accelerated learning.
  - Preparation of schools to absorb the demand in terms of physical infrastructure and school teachers.
  - Strengthening of PTAs or School Vikas Samiti (SVS) and organize regular meetings to monitor regularity of attendance of children and teachers and help resolve problems confronted by first generation learners.
- e) Trainings and Orientation Programmes on issues relating to child Labour and Children's Right to Education along with Tasks and Roles of specific stakeholders as follows:**
- All MCD and government school teachers with focus on their role towards reaching out to out-of-school children and addressing the issue of right to education to all those who have been left out.
  - Officials at the local level of departments of police, revenue, labour, WCD, education.
  - Youth groups
  - Women's Groups
  - PTA's members
  - School Vikas Samiti members

- Volunteers of NRBCs
- Volunteers in RBCs
- Municipal Councilors and Ward Members
- Members of District Task Force for effective coordination of activities of rescue and rehabilitation of child labour
- Members of Child Welfare Committee (Member- CWC)
- Special Juvenile Police Unit ( SJPU) of the District

## **7. Components of the Strategy for Unaccompanied Child Labourers (migrants) in Delhi**

**7.1.** This strategy is particularly for trafficked and migrant child labour and those children who are engaged to work in sweat shops, small ghettoized dwellings and so on even if they are based in Delhi. This strategy will include enforcement of law, rescue, interim care and protection and legal proceeding, repatriation and rehabilitation of child labour, particularly trafficked and migrant children, which is based on the “*Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour.*”<sup>5</sup> Wherever needed some additional activities have been inserted keeping in view the context in Delhi. This approach is based on being pro-active and not reactive strategies.

**7.2.** The action for this strategy will be taken up in all the identified areas of South Delhi and other workplaces. At the same time the government is to be

---

<sup>5</sup> Ministry of Labour and Employment, Government of India, 2008.



prepared to respond to any contingency based on new information that becomes available. It is seen from the profiles that these children are engaged to work in prohibited occupations such as zari units, dhaba & hotel, bangles, leather, auto-workshop, domestic child labour, bulb manufacturing, rag picking and so on. The estimates of such children range from 10000 to over one lakh. Complaints have been lodged on this already and action to be taken in accordance with the procedure laid out with immediate effect. The strategy for rescue and rehabilitation must anticipate rescuing of each one of these children and taking them to reach the logical end of enjoying their right to education.

**7.3.** The above strategy also must be preceded by a massive campaign through media and other means to create an atmosphere for zero tolerance of child labour in apartment complexes, as well as in all other forms of work. Meetings with cluster of employers are to be held by the labour and WCD departments. Messages on the illegality of such employment have to be given. There has to be action taken on the employer and wide publicity for the same to act as deterrent. For an atmosphere building as well as enforcement, the traffic police must take action on all those aiding and abetting beggary on traffic signal points. The public should be discouraged from giving alms and instead be asked to contribute to any good institution working for children.

#### **7.4. Responsible Authorities**

##### **7.4.1. State Level:**

a. There should be a **Steering Committee on Child Labour** at the State level under the Chairpersonship of the Chief Secretary with other concerned

Secretaries of the Government of NCT of Delhi. The Joint Commissioner of Police (CAW) from Delhi Police and Senior Officer of MCD of equivalent rank should be members of this Steering Committee. Representative of Childline India Foundation Delhi region should also be a member of this Committee. The Steering Committee on Child Labour should interface on quarterly basis with the senior government officers of the source States (Bihar, U.P. Orissa, Jharkhand, West Bengal, Rajasthan, Chhattisgarh, M.P., Uttarakhand, etc.) from where the child labour migration is higher.

The Steering Committee on Child Labour at the State level should be responsible for developing status report on child labour in Delhi and submit to NCPDR/DCPCR and State Child Protection Unit [provision under section 80 of Juvenile Justice (Care and Protection of Children) Rules, 2006].

**b.** The Steering Committee will meet on quarterly basis to review the cases of child labour handled by the District level Task Forces in the last quarter and the cases pending at their level. It will also look into operational difficulties in the implementation of the relevant laws relating to child labour as well as these action plans and remove such difficulties. It will also act as the redressal mechanism for the grievances of NGOs/activists/RWAs, etc. pertaining to child labour and dispose such grievances within reasonable time.

#### **7.4.2. District Level:**

At the District Level, the District Level Task Force on Child Labour will oversee and monitor all actions for identification, pre-rescue planning, rescue operation, interim care, prosecution of employers/violators under all relevant laws, including

, Bonded Labour System (Abolition) Act, 1976, repatriation, rehabilitation/social reintegration and follow up.

The Task Force will consist of the following:

- Deputy Commissioner of District– Chairperson
- Deputy Labour Commissioner– Member Secretary/Convenor
- Additional District Magistrate of the District- Member
- Deputy Commissioner of Police – Member
- District Social Welfare Officer – Member
- District Urban Resource Centre (SAA)– Member
- District Health/Medical Officer– Member
- Senior most Officer of MCD in the District– Member
- Chairperson of the concerned Child Welfare Committee- Member
- Centre Coordinator, CHILDLINE (having jurisdiction over the area)- Member
- Voluntary Organisations actively involved in the rescue and rehabilitation of child labourers in the area- Member

## **7.5. Procedures to be established for Rescue Operations**

The rescue operation is divided into two sub stages: pre-rescue and the actual rescue.

### **7.5.1. Procedures to be adopted in Pre-Rescue stage towards facilitating an effective rescue operation**

A pre-rescue operation can be divided into two sub categories: ‘minor rescue operation’, where the number of children to be rescued is estimated to be less

than 10; or 'major rescue operation' where the number of children to be rescued is estimated to be over 10.

**(a) Informant:**

- i.** Any person, including NGOs, aware of the commission or omission of (a) any act involving child labour; or (b) the procurement and/or abetment of child to be used for labour; or (c) the likelihood of any child to be used for any form of child labour shall immediately inform the responsible authority. At no stage shall the responsible authority insist on actual detailed information, with regard to the alleged location and other specific details pertaining to the rescue operation, with a view to safeguarding the interests of the child.
- ii.** Information about child labour available from secondary sources, including survey findings and data available with NGOs, may be used as the basis for rescue operations.
- iii.** In case of extreme urgency, where it is likely that the children may be harmed or may disappear or there is a grave threat to the well being of the child, even if the number of children is to exceed 10 (i.e. a major rescue operation), it is recommended that the rescue be commenced immediately.
- iv.** The informant need not actually participate in rescue operations, unless they so desire, be made party to the information filed under Section 154 of the Code of Criminal Procedure, 1973 (FIR) or be compelled to participate as a witness. If there is a grave danger in disclosing the specific location where the child is placed, this information may be withheld on the

condition that the informant or their representative will accompany the police to the specific location at the time of the actual rescue.

**v.** Enter source information in the General Diary (GD) of the Police Station (PS) in such a way that anonymity of the source/victim/location is not compromised.

**vi.** Any rescue operation should be so designed as to include details of location, entry and exit points, ways and means of removing victims securely and preventing the disappearance of traffickers. All entry and exit points must be secured. There is a need to carry out a search of the places of rescue. An official conversant with the local language be sent to the place incognito. The help of local officers/NGO be taken, provided the information remains confidential. Erstwhile child labourers, who are willing to co-operate, could be useful in rescue. A sketch map of the area is to be drawn up which could be used for briefing and for assigning specific duties to the officials who will participate in the rescue. This includes duties such as cordoning, guarding entry and exit points, locating the hide-outs, identifying safe place to keep the rescued child labourers till completion of the rescue operation, etc.

**vii.** The 'responsible authority' for the Rescue Operations will be the Deputy Commissioner of the District or the Deputy Labour Commissioner on his behalf. The authority receiving the information will initiate planning for a raid and rescue at the earliest but within 24 hours in case of a major rescue operation.

**viii.** The onus for sharing the information rests with the concerned responsible authority who has received the information from the informant, and not the informant itself.

**ix.** Wherever possible, active assistance or voluntary assistance of social organizations or NGOs or other responsible citizens should be sought to ensure that the rescue operation is carried out safely, to reduce the trauma and ensure the safe transition of the child.

**(b) Verification of the information provided**

**i.** In case of a major rescue operation, where it is necessary to verify the information in the best interest of the child, the responsible authority should at the earliest, make a prima facie determination of whether the information provided is likely to be true. The informant (s), NGOs or any other party interested in facilitating the rescue of the child may help the responsible authority.

**ii.** The responsible authority shall simultaneously inform all the relevant Government Departments, including but not limited to the Department of Women and Child Development and Child Welfare Committee, Municipal Corporation, Home Department, with the view towards ensuring that adequate preparations are undertaken to facilitate the interim care and protection and taking care of logistical and other requirements subsequent to the rescue operations.

**(c) Preparing a plan of action towards undertaking the rescue operation**

- i.** In case of a major rescue operation, a plan of action shall be prepared towards facilitating the safe rescue of the children and towards ensuring that the rescue operation itself does not inflict additional trauma on the children to be rescued.
- ii.** Care has to be taken to ensure that The District Task Force has list of all Juvenile Homes, Welfare Hostels, accommodation in NGOs, Residential Bridge Courses and other public spaces that have been identified for housing the children. In anticipation of the large numbers of children who would be rescued there must be a provision for at least 1500 rescued children at any given point of time. District wise plan for this will have to be made and provided for.
- iii.** Simultaneously facilities of food, clothing, shelter, are to be arranged. A panel of care givers and volunteers is to be made to be with such children. There is also a need for education intervention through SSA till such time such children are sent back home. All staff members are to be given training on caring for children who will be housed in such homes. There is also a need to arrange for their security should there be any resistance from the employers or middlemen and brokers.
- iv.** Transportation of rescued children by the labour department to the home that children have been assigned to must be done immediately. All procedures of recording statements by the police, DM and the labour department are to be made at the place where children are located.

- v. The rescue team to be involved in the actual planning shall be kept to the minimum with a view to ensure secrecy and confidentiality of the rescue operation.
- vi. All proceedings shall be treated as being extremely confidential.
- vii. The rescue team shall ensure that a map of the rescue area is prepared on the basis of the information provided, which marks out where working children are likely to be found as well as identifying spots which maybe potentially dangerous for child, with the assistance of NGOs and other duty bearers, as may be feasible.

**(d) Preparation for Residential Shelter through RBC, JJ Homes, NGO**

**Shelter for Rescued Child Labour**

- i. Identification of safe space like RBCs/Homes/Community Centre beforehand to accommodate the rescued children, so that they are not sent to the police station. And further post-rescue procedure must be done at the place of their staying (as mentioned above).
- ii. Labour Department, being the nodal department for rescue of child labour, shall coordinate with all other relevant departments to ensure that all arrangement for comfort of the rescued children's including transportation of the children to the temporary home, food and refreshment, protect and safety, and training for the personnel of the homes/shelter.

**(e) Formation of the Rescue Team**



- i.** A rescue team shall be constituted to carry out a major rescue operation. The actual number of the members of the team will be determined by estimated number of children to be rescued, the geographic area of operation and any other significant factors. The rescue team shall comprise of the following:
- a. The Representative of the Department of Labour in the District, not below the rank of Assistant Labour Commissioner;
  - b. Sub-Divisional Magistrate concerned;
  - c. The Head/Nodal Officer of Special Juvenile Police Unit (SJPU);
  - d. District Social Welfare Officer/District Child Welfare Officer;
  - e. Deputy Education Officer (Zonal) of MCD (wherever applicable);
  - f. The Senior-most Officer of the Factory Licensing Department of MCD (wherever applicable);
  - g. A Member of the concerned CWC (to be nominated by its Chairperson);
  - h. Centre Coordinator of CHILDLINE having jurisdiction over the area;
  - i. At least one NGO/VO actively involved in the rescue and rehabilitation of child labour.
  - j. The rescue team must keep in mind that the rescued children kept in the home are accompanied by few local youth from the respective state to comfort the children.
  - k. Being the Nodal Officer, the concerned Deputy Labour Commissioner will be responsible for prompt initiation of pre-rescue planning and necessary coordination with others concerned in this regard.

## **ii. Orientation of all members to be involved in the rescue operation**

In case of a major rescue operation, a basic orientation should be provided to all persons who are to be involved in the rescue operation, including voluntary members, community members etc and should include review of the various laws that are applicable, the members that are actually going to be involved in the rescue operation and their respective roles, and how they should sensitively deal with children, treating the children as victims and not offenders.

### **7.5.2. Procedures to be adopted in the actual rescue operation**

- i.** Rescue team should, wherever possible, be accompanied by a Sub-Divisional Magistrate (SDM), who is the implementing authority under the Bonded Labour System (Abolition) Act, 1976 and officers of the labour department, so that the Child Labour (Prohibition and Regulation) Act, 1986 may also be utilised wherever applicable.
- ii.** Strategic placement of rescue team members in pre-planned locations shall be undertaken, in order to locate the actual employer of children in that area, and towards preventing the children from being relocated or moved away from the site;
- iii.** The police personnel, including women police officers ( from concerned SJPU) shall accompany the rescue team wherever possible, and the police officers that are in the direct contact with the children shall wear civil clothes;

- iv.** Physical separation of employers and children and to prevent any communications between them, during the rescue, to ensure that the employers do not threaten the children, or brief them to misguide the police and persons conducting the actual rescue operation. At all stages, care shall be taken by duty bearers to ensure that the child is not exposed to the employer;
  
- v.** The assigned member of the rescue Team simultaneously collect evidence in the form of documents and other photographs (wherever possible), that can be used in prosecuting the employer and should also verify the legal documents of the employer towards determining the status of the child. The police must be empowered to take possession of legal and other documents such as the employer's registration certificates or any other forms of circumstantial evidence, to be held in lien to ensure that the employer does not escape and to ensure the employers appearance at subsequent investigations;
  
- vi.** The police shall ensure the safety of the child as the utmost priority and ensure that they are treated in a humane manner. The police shall facilitate that the belongings of the child along with personal items are collected and kept in safe custody, which are eventually handed to Children's Home authority;
  
- vii.** The provision under Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended by Amendment Act, 2006 shall apply for rules regarding confidentiality;

- viii.** Specific care shall be taken to ensure that food arrangements and transportation are made available as a priority;
- ix.** The police shall, immediately after the rescue operation is carried out, file the information under Section 154 of the Code of Criminal Procedure, 1973, (FIR) both in case of a minor and major rescue operation. The police shall ensure that the specific information of each child shall be recorded. FIR should take cognizance of offence under the appropriate criminal laws as applicable.
- x.** The details of every child must be included in the FIR. In Case the rescue is conducted by Labour Department officials along during normal course of inspection or on specific complaint, the responsibility of lodging an FIR of cognizable offence under the appropriate criminal law, whenever applicable, will be with the concerned labour department official.
- xi.** In case the rescued child also happens to be a bonded labour, then the action must be initiated simultaneously under the Bonded Labour System (Abolition) Act through the appropriate authority.
- xii.** Every rescued migrant or trafficked child labour, including bonded child labour, has to be presented before the Child Welfare Committee. However, in case of bonded child labour, they need to be also produced before the Sub-Divisional Magistrate for grant of certificate and other compensations. This would also include the bonded child labour rescued along with the family.

**xiii.**After the rescue operation is carried out, only the Child Welfare Committee, as the competent authority Under the Juvenile Justice (Care and Protection of children) Act 2000 & amendment Act, 2006, is empowered to any decision with regard to the child, including the decision to release such children as per provision of said Act.

### **7.5.3. Procedures for the Interim Care & Protection and Legal Proceedings**

#### **(a) Medical Examination**

- i.** As soon as the major rescue operation has been completed, within 24 hours, a medical team shall be dispatched to the place where the children are kept to undertake a medical examination. The admission to any children's home shall not be conditional on the requirement of a medical certificate;<sup>6</sup>
- ii.** Wherever there are actual signs of injuries, hurt or the likelihood of sexual abuse, the child shall be sent to the Government hospital for further medical examination. Care shall be taken that the child is not in contact with the employer;
- iii.** The medical officer shall undertake a detailed physical examination and record the findings in writing, laying particular importance to any signs of physical and/or sexual abuse. Wherever considered appropriate, the medical officer can also recommend that the child shall be kept for further observation or sent for counseling;

---

<sup>6</sup> So that at odd hours, children are admitted immediately in the home.

- iv.** For provisions regarding age of the child, the Child Welfare Committee shall be the competent authority;
- v.** In case of a minor rescue operation, the authorities of the Children's home shall make provisions to carry out the medical examination within 24 hours.

**(b) Investigation and Collection of Evidence**

In addition to the medical examination, the police shall promptly collect all forms of evidence that shall be used in the legal proceedings, which shall include but not be limited to, any documents of employment, attendance musters, photographs of the workplace, statements of children and other people and the like.

**(c) Procedures for the child in the interim period and producing the Child before the Child Welfare Committee**

The Child Welfare Committee has a significant role in this stage. Since they are not full time officers they have to be assisted by the department of Women and Child Development at every step to carry out the tasks. Further the labour and police department are to cooperate with the CWC.

- i.** Once the child has been rescued, the child shall be produced before the Child Welfare Committee, as the competent authority, under Section 32 of the Juvenile Justice (Care and Protection of Children) Act, 2000;
- ii.** The Child Welfare Committee shall coordinate and liaison as the central focal point with the police, labour department, NGOs and other relevant

duty bearers towards facilitating necessary procedures in the best interest of the child. ;

**iii.** Child Welfare Committee shall be the guardian of the rescued child who are empowered to take decisions in the best interest of the child and shall have the power to secure all relevant information and documentation in order to plan the rehabilitation plan of the child.

**(d) Preparation of Charge Sheet**

**i.** Once police has completed the investigation, a charge sheet shall be prepared and the judicial proceedings under the Code of Criminal Procedure, 1973 shall apply;

**ii.** Care shall be taken to ensure that all sections that apply, across different statutes are incorporated into the charge sheet, in coordination with different agencies including NGOs, as maybe required;

**iii.** Wherever appropriate, references shall be made to all the supplementary sources of information, like the report of the probation officers, statements recorded by the Child Welfare Officers, NGO inputs towards strengthening the charge sheet and prosecuting the employer, their representatives or agents.

**iv.** Investigation into the FIR of cognizable offences will be carried out by Police having jurisdiction over the case. The Investigating Officer (IO) shall ensure that all relevant evidence including material, forensic, documentary evidence is collected and analyzed to build a proper case for prosecution. IO shall also ensure that all relevant and applicable provisions of the criminal

laws and labour laws are invoked for the case. IO should also collect and include as evidence relevant reports such as orders of the CWC, home enquiry report conducted under the JJ Act, reports prepared by the officials of the shelter homes/counselors/partner NGOs, etc.

- v. Complaints and challans under the labour laws shall be filed by the labour officials. In order to ensure that the case is covered completely, the officials must examine implementation of all applicable labour laws and assess the violations. The labour officials shall also take necessary action for obtaining compensation/claim/wage arrears on behalf of the rescued child.
- vi. In case, it also turns out to be a case of bonded labour, the labour officials shall immediately inform the concerned executive magistrate to initiate action under the Bonded Labour Systems (Abolition) Act simultaneously.
- vii. As per the directions of the Hon'ble Supreme Court of India, labour officials shall also issue a notice to the defaulting employers to deposit Rs.20,000 per child in the District Child Labour Rehabilitation cum Welfare Fund. In case of migrant child labour the amount will be transferred in the child's name to the District Child Labour Society to be utilized for the education of the child.
- viii. The Labour Officials would also take appropriate action for deposit of Rs 5,000 by the State Government in the Child Labour Welfare & Rehabilitation Fund for every rescued child, in case employment cannot be provided to an adult member of his/her family.

**(e) Special measures for protecting the child**



- i.** An individual plan shall be prepared for every child by the probation officer or the honorary/voluntary probation officer, who shall determine a course of action for the immediate repatriation and rehabilitation as well as the long term educational rehabilitation of the child, with the Child Welfare Committee;
- ii.** The Probation officer shall communicate with the child and identify areas of interest which shall be considered in determining the rehabilitation plan and identifying appropriate actions that can be adopted.

#### **7.5.4. Procedures to be established for the Repatriation of the Child**

##### **(a) Assessment and Verification of the Child's background on the basis of the information provided**

- i.** On the basis of the information provided by the Child, the Child Welfare Committee shall undertake a detailed assessment to verify the information provided and shall dialogue with **corresponding Child Welfare Committees in the cited place of origin;**
- ii.** In case of claimants of the child, the CWC shall adopt extreme caution and shall seek specific documentation, wherever possible, to verify the claims, considering the risks of claims by the employers or their representatives or agents;
- iii.** Considering the risk of tutoring the child by the employers, the Child Welfare Committee shall adopt extreme care and caution and must satisfy

itself completely and shall record the reasons in writing for taking a decision.

- iv.** For Children who cannot be repatriated, care shall be taken for specific measures to ensure their effective short term as well as long term rehabilitation within the State of Delhi.

**(b) Transport, Logistics and other preparations**

Repatriation shall be adopted only if it is in the best interest of the child by the Child Welfare Committee and shall be intra state or inter-state.

**(c) Intra-State Repatriation**

- i.** For any child under the age of fourteen years, the Child Welfare Committee in the place where the child is rescued shall coordinate with the Child Welfare Committee in the home district towards repatriating the child.
- ii.** For a child between the ages of fifteen to eighteen, the Child Welfare Committee shall have the discretion to determine the appropriate course of action, keeping the best interest of the child in mind, on a case by case basis.<sup>7</sup>
- iii.** The Child Welfare Committee in the home district shall coordinate with the District Collector/District Magistrate towards undertaking family tracing of

---

<sup>7</sup> We leave the CWC as the appropriate authority to determine the course of action, considering and balancing several critical realities and specific circumstances, on a case to case basis for children between the ages of 15 -18.

the child and inform the other Child Welfare Committee of the course of action that would be adopted.

**(d) Inter-State Repatriation**

- i.** In case of inter-State Repatriation, a dual strategy shall be adopted based on the age of the child;
- ii.** For a child below the age of fourteen, the child shall be handed over to the Child Welfare Committee in their respective home states, with a view to prevent false claimants for the child in Delhi and to prevent the possibility of re-entry into child labour;
- iii.** For a child between the ages of fifteen to eighteen, the Child Welfare Committee shall have the discretion to determine the appropriate course of action, keeping the best interest of the child in mind, on a case by case basis.
- iv.** The process provided by the Resident Commissioner of Bihar shall be adhered to.

In both the cases, the CWC should do the needful in coordination with the Office of the respective State Resident Commissioner based in Delhi.

**Box No. 1:**

**Protocol for Repatriation and Rehabilitation proposed by Government of Bihar**

The children from Bihar constitute a big proportion among the rescued children in Delhi. Keeping this in view the government has proposed protocol to work on the issues of Prevention, Rescue, and Repatriation & Rehabilitation.

For total abolition of the child labour from the state, Bihar Government's

measures are as follows:

- a) Constitution of a Commission on Child Labour
- b) Creation of a position of Joint Labour Commissioner (JLC) at Bihar Resident Commission office, New Delhi.
- c) Creation of Special Task Forces at District and State level.
- d) Preparation of State Action Plan.
- e) Implementation of NCLP is active in 24 districts of the 38 districts.

With regard to the repatriation of rescued child labours in Delhi, the JLC would arrange the repatriation to Patna at Government expenses and the district labour officials would make all arrangement of reaching the children to their respective villages and hand over to their parents.

Once the rescued children are handed over to their parents, Government would deposit Rs. 5000/- per child to the fund of the child labour welfare committee chaired by the District magistrate of the concerned district. Similarly Rs. 20000 received as compensation from the employers is also deposited in the same fund. The rescued child is given Rs. 1500/- for one month's ration and Rs. 200/- for one pair cloth. These children would be sent to the NCLP school with a stipend of Rs. 100/- p. m. The State Government has worked an action plan to make reach the benefits of various welfare schemes under HRD, Health, Rural Development, Urban Development, Social Welfare Department, Minority Welfare Department, SC/ST & Backward Class Welfare Department and Information and Public Relation Department.

*Source:* Joint Labour Commissioner, Bihar Bhawan, New Delhi.

#### **7.5.5. Procedures for the Rehabilitation and Social Reintegration of the Child Labourer**

- a) To secure the effective rehabilitation of the child the methods outlined under Chapter IV of the Juvenile Justice (Care and Protection of Children) Act, 2000 and as amended by Amendment Act, 2006 shall apply;
- b) Towards this end, a rehabilitation plan shall be prepared by the Child Welfare Committee, in the home district, in case of intra state repatriation in coordination with District Collector; and by the Child Welfare Committee in the home state, in case of inter- state repatriation;

- c) The repatriation plan shall include two independent components: the educational rehabilitation of the child and economic rehabilitation of the family. The District Collector is responsible for implementing the rehabilitation plan in case of intra state rehabilitation. In case of inter-state repatriation; a report shall be sought from the Child Welfare Committee in the Home State, towards ensuring the effective rehabilitation of the Child;
- d) The repatriation plan must include measures that are sustainable and match both the short term as well as long term rehabilitation of the child and their families. The importance of education through formal schools as a rehabilitation measure for all children rescued from child labour is utmost importance. The bridge courses of residential nature under SSA is a policy that has to be integrated into the plan. Further, if necessary, the strategies for the education rehabilitation of the child which have already been detailed in Chapter IV Section 40,41,42,44,45 of Juvenile Justice (Care and Protection of Children) Act, 2000 and as amended by Amendment Act,2006 and as per provision mentioned in “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour”<sup>8</sup> may be perused.

#### **7.6. Training and capacity building of duty bearers**

The State shall ensure that all duty bearers are regularly trained and capacity building processes are undertaken at periodic intervals towards creating a well trained, sensitised and committed work force.

---

<sup>8</sup> Ministry of Labour & Employment, Government of India

## **7.7. The Responsibilities of the Respective Departments<sup>9</sup>**

### **7.7.1. Delhi Police**

The concerned Deputy Commissioner of Police should:

- a.** make the necessary arrangements of police force for raids as per the demand and requirement of concerned District Child Labour Task Force;
- b.** the concerned Deputy Commissioner of Police shall supervise and ensure that the area Assistant Commissioner of Police (Sub-Divisional) participate in the raids conducted by the District Child Labour Task Force.
- c.** further prosecution process must be handled by the representative of Special Juvenile Police Unit (SJPU) of concerned district. SJPU representative must be trained and oriented on the issue of child protection and child rights;
- d.** the Police Training College of Delhi Police (Jharada Kalan, Delhi) must incorporate the child rights and child protection issues in the training module/curriculum;
- e.** should take steps to arrest the owners/employers of the child labour as per provision of Indian Penal Code Sec. 331, 370, 374 and 34 as well as provisions of Sec. 23, 24, 26 of Child Justice (Care and Protection) Act. They should register the crime and take all the necessary future steps to conduct further criminal proceedings;

---

<sup>9</sup> Some of these roles has already been mentioned in the previous paragraphs of the Delhi Action Plan. However, for better understanding and easy reference , the roles and responsibilities of various departments/ authorities involved in the process are provided in consolidated manner.

- f. Should treat the liberated child labour with respect and honour and hand them over to children's home in the charge of officers of the Department of Women and Child Development.;

Put forward the cases of child labour as per section 32 of JJ (Care and Protection of Children) Act, 2000 with the help of District Child Labour Task Force before the Child Welfare Committee. **7.7.2. Department of**

**Labour, GNCTD:**

- a) To keep the areas in their jurisdiction where the child labour is likely to be hired under continuous active surveillance.
- b) In case the child labour is found to be employed and if **their number is high, then immediate** action should be taken within 24 hours after contacting the Deputy Commissioner and Police officers by carrying out a raid through District Child Labour Task Force . If the number of child labour is less, then immediate action should be taken to liberate them on the very day with the help of departmental colleagues and police.
- c) To keep track of the planning and conduct of every child labour rescue operation. It should be ensured that adequate number of officers and shop inspectors are present during the raid. There should be active participation in the liberation of child labour. Necessary action should be carried out against the employer of the child labourer as per the provisions of Sec. 3 of Child Labour (Prohibition and Regulation) Act, 1986; if this is applicable. If section 3 of the Act is not applicable then action should be taken under provisions of section 7, 8, 9, 11, 12 and 13.

- d)** Even if the job carried out by the child worker does not fall under the dangerous job category, the child labourer should be liberated from the clutches of unscrupulous employers and handed over to the police with a view to eradicate the undesirable practice of child labour and bringing these children under the mainstream of education.
- e)** To document all details of the rescued child worker by obtaining details from him/her in an affectionate manner and furnishing a copy to the police department. A complaint against the employer of the child labourer should be lodged (with the help of Task Force, if necessary) with the police and his/her statement should be recorded as a matter of formality and duty.
- f)** While obtaining information from the child labourer, if it is found that the employer had paid any money as financial assistance, loan, advance etc. to the parents, then immediate report should be made to the Sub-Divisional Magistrate for declaring the child labourer as 'forced' labourer and a copy should be endorsed to the Government through the concerned Deputy Commissioner.
- g)** Due care of the liberated child labourers should be taken till they are sent to the Children's Home and it should be seen that they are provided with proper food, water and other facilities in time.
- h)** As per the definition specified in Section 2(K) of the Juvenile Justice (Care and Protection of Children) Act 2000, the individual who is below 18 years of age should be considered as a child. Therefore in the course of raid, if child workers above 14 years of age are found, then they should also be



liberated from the clutches of the employer(s) and handed over to the police.

- i)** A sum of Rs. 20,000/- (Rupees Twenty Thousand) should be recovered from the employer of child labourer subjected to legal action vide Sec. 3 of Child Labour (Prohibition & Regulation) Act 1986 as per the directives issued by the Hon'ble Supreme Court in the M.C.Mehta case, 1996 and credited to the District Child Labour Welfare Fund of the District to which the child labour originally belongs.
- j)** the concerned Deputy Labour Commissioner shall supervise and ensure that the Assistant Labour Commissioner participate in the raids conducted by the District Child Labour Task Force It should be ensured that at least one Labour Inspector at the district level should be designated for handling the issue of children, with proper orientation.
- k)** To strengthen the intelligence network through the Community Workers of the Labour Department on the status of out-of-school children, places of work involving children and their employers/ contractors/ middlemen, etc.
- l)** Necessary legal action should also be taken against the employers of child labourers under the following legislations and corresponding Rules(whenever applicable):
  - i.** Delhi Shops and Establishment Act, 1954
  - ii.** Minimum Wages Act, 1948
  - iii.** Motor Transport Workers Act, 1961
  - iv.** Factory Act, 1948

v. Interstate Migrant Workmen(Regulation of Employment and Condition of Services )Act, 1979

vi. Contract Labour (Regulation & Abolition )Act, 1970

- m) Every shop owner should declare voluntarily, displaying a board, that *this shop has no child labour* and the same is certified by the labour department on the recommendation of local voluntary organizations and childline of concerned area.
- n) The department should motivate/involve the RWAs to declare their colonies as “Child Labour Free Colony”.

### **7.7.3. Women and Child Welfare Department, GNCTD**

- a) Generation of awareness among masses against the practice of child labour. Steps should be taken for the rehabilitation of local child labourers with the help of Deputy Commissioner (DC) and voluntary organizations, if the child labourer happens to be from the local area.
- b) Take charge of child labourers liberated by the District Child Labour Task Force and see that they are provided adequate food, clothing and shelter. Due care should be taken about their safety.
- c) If the child worker happens to be a local person, s/he should be inducted in the mainstream of education with the help of education officer. If possible, s/he should be provided job oriented technical education.
- d) The Superintendent of the Children Home to which the rescued Child Labourers have been placed should arrange for the interaction/taking of statements by the concerned Child Welfare Committee.

- e) Information about instructions of the Child Welfare Committee should be independently submitted to the concerned DC and Labour Commissioner every month.
- f) District Child Welfare Officer, DWCD, GNCTD is the designated nodal officers for the District Child Labour Task Force .
- g) Issue letters to the respective CWCs to nominate a member who can be part of the District Child Labour Task Force. Such member of the CWC can be a link between the CWC and District Child Labour Task Force for all practical purposes, including, attending the pre-rescue planning meeting of the Task Force, issuing Orders for the interim care and custody of the rescued child reports (SIR), verification/identification of their families and their ultimate repatriations/follow-up. The CWC Member will get the inquiry done and Social Investigation Report prepared under JJ Act in a child friendly manner at the camp/home/hostel/ RBC where the children have been lodged.
- h) To keep the Homes ready for the reception and suitable accommodation of the rescued child labours.

#### **7.7.4. Education Department, GNCTD**

- a) In order to absorb the rescued child labourer into mainstream of education without any discrimination, (sex/caste etc.) they should be offered free and compulsory education and the department should ensure that the rescued child labourers receive it.
- b) Various schemes sponsored by the Central and State Governments should be implemented for this purpose.

- c)** During their educational period, they should get the benefit of free meals scheme of the State Government.
- d)** The Department will set up initially 250 Alternative Innovative Education Centres (AIEC)/NRBCs in the areas of child labour concentration and/or in the areas having large number of out-of-school children. The Department would also ensure that all the children at NRBCs/RBCs are given free mid day meal (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009).
- e)** Care should be taken to see that the child labourer develops liking for the education.
- f)** The education officer and Principal of the school should be held responsible for the dropouts among the child labourers receiving education.
- g)** Parents of child labourer should be counseled to stress the importance of education among the labourers.
- h)** Monitoring of academically weaker children in schools will be done with the involvement of CRC and NGOs for (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009) preventing dropouts.
- i)** The concerned District Urban Resource Centre Coordinator (DURCC) will send a monthly report to the Dy. Commissioner of the District with a copy of the same to the SPD (SSA) and Director (Education), GNCTD about the following:
  - i.** School wise and class wise attendance and drop-outs corresponding to the number of children enrolled;

- ii.** Number of out-of-school children in the district (school wise and class wise) along with the list;
- iii.** The efforts made for awareness/sensitization/ educational counseling of children and their parents.

Such reports should be examined in the following meeting of the district level Task Force and of the state level Steering Committee as well as at the highest level in the Education Department of GNCTD for remedial measures.

- j)** Department will ensure that all its schools have adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and they are maintaining punctuality. It should also introduce a system of incentive/reward for its schools which maintains higher enrolment/retention of out-of-school children and prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain the out-of-school children.

#### **7.7.5. Health Department, GNCTD**

- a)** After receiving information about the raid of Action Force through Labour Officer/Police Officer, complete medical examination of liberated child labourers should be carried out.
- b)** Immediate medical treatment should be initiated, if required.
- c)** Clear certificate of age (issued by medical officers not below the rank of Government Assistant Surgeon) of the liberated child labourer should be furnished immediately to the investigating police officer or Government labour officer as per their demand.

- d) Expenses incurred towards the treatment and issuance of medical certificate should be met by the DC from the District Child Welfare Fund and should be recovered from the employer of the child labourer and reimbursed to the District Child Welfare Fund after recovery.

#### **7.7.6. Municipal Corporation of Delhi (MCD)**

- a) Under its Slum Development Programme, the MCD should enhance the standard of living of all children living in the slums within its jurisdiction and particularly ensuring effective access to free health check up and medical care, quality education, recreation, vocational training and community life.
- b) MCD Schools should provide free and compulsory education to all rescued child labourers belonging to Delhi irrespective of their age ( by arranging accelerated learning for the older children through NRBCs wherever necessary for mainstreaming them to age appropriate classes) without any discrimination (sex/caste etc.). They should be mentoring the non-formal education programmes run by NGOs in various slums with a view to bringing all out-of-school children in the area into the fold of mainstream education.
- c) The Headmasters and the teachers of the MCD schools will hold a monthly meeting of the parents for sensitizing/ counselling them about importance of the education. Experts/ communities leaders would be invited to such meetings.
- d) MCD will also have sensitization/counseling programmes for the slum-dwellers in general about the importance of education for their

children and the facilities available for the same as well as the long-term evil impacts of child labour through meetings, prabhat ferries, documentary films, etc. in the colonies.

- e)** The MCD should ensure that all its schools have adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and such teachers are maintaining punctuality. It should also introduce a system of incentive/reward for its schools which maintains higher enrolment/ retention of out-of-school children and prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain the out-of-school children.
- f)** The Education Department of MCD will obtain the list of children who are not attending schools and will instruct the Principal of the concerned school(s) to bring such children back to school.
- g)** The concerned Zonal Dy. Education Officer (DEO) will send a monthly report to the Dy. Commissioner of the District with a copy of the same to the Labour Commissioner and the Education Department of MCD about the school wise and class wise attendance and drop-outs corresponding to the number of children admitted. The report should also include the efforts made for sensitization/ educational counseling of children and their parents. Such reports should be examined in the following meeting of the district level Task Force and of the state level Steering Committee as well as in the Education Department of MCD for remedial measures.

**h)** The Zonal Deputy Education Officer (DEO) will be responsible as the Nodal Officer on behalf of MCD on various matters relating to the pre-rescue planning, rescue and post-rescue rehabilitation/education in the concerned MCD area(s).

#### **7.7.7. Deputy Commissioner of the District concerned**

- a.** To ensure that no incidence of child labour in any form is found within his/her jurisdiction.
- b.** To get the meeting of the District level Task Force on Child Labour on monthly basis and to preside over the same.
- c.** To forward a copy of the monthly meetings of the District level Task Force on Child Labour detailed report of the review meeting should be to the Government of NCT of Delhi through Labour Commissioner.
- d.** To get a list of all voluntary organizations dealing with the problems of child labour prepared with areas of their expertise and to ensure that such list is updated on regular basis. Along with these organizations, public awareness drives should be arranged. Public opinion should be generated to stress that education is the right of every child and is a first step towards progress.
- e.** To get constantly updated about the raids, rescues and rehabilitations of child labourers in the district and to extend all necessary support to the rescue team.
- f.** To ensure that all necessary actions are taken within his competence under the Bonded Labour System (Abolition) Act and Rules ,1976 as well as under the 'Centrally Sponsored Plan Scheme For



Rehabilitation of Bonded Labour', if the facts and circumstances in which child labourers are found lead to the presumption that they are forced labourers/bonded labourers.

- g.** To also ensure that Rs. 20,000/- per child labourer is recovered from his/her employer and credited along with Rs. 5000/- to the District Child Labour Welfare Fund, as per the direction of the Hon'ble Supreme Court of India in the Case of M. C. Mehta, 1996.
- h.** To furnish a utilization certificate to the Government through the Labour Commissioner about the funds stated above on half yearly basis, before 30 September and 31 March every year.
- i.** Guidance may be sought (wherever necessary) from the Labour Commissioner with regard to the utilization of collected funds. As far as possible, the amount collected should be utilized for the rehabilitation of the child labourers for whom the amount is collected.
- j.** As per the judgment of the Supreme Court cited above, adult unemployed member of the family of the child labourer should be provided employment there in his place and the child should be directed to receive education.
- k.** In case the child has taken up the job due to economic condition of the family, adequate efforts should be made to provide all benefits to the family under all relevant developmental and social security schemes of the Government.

DC should recommend to the authority of the concerned departments for making remarks in the Annual Confidential Report (ACR) of the Task Force members for ensuring their accountability to the assigned task.

**7.8.** The above roles and responsibilities of concerned departments / authorities of Government of NCT of Delhi will be required for implementing both Strategy – I (Social Mobilization for Total Abolition of Child Labour) and Strategy –II (Pre-rescue, Actual -rescue , Interim care, Enforcement of Laws, Repatriation and Rehabilitation of Child Labour).

## Delhi Action Plan for Abolition of Child Labour

