



CHILD LABOUR KNOW MORE

January, 2019

A Research Study on Child Labour in India

by



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Kailash Satyarthi Children's Foundation

LIST OF ABBREVIATIONS

ILO:	International Labour Organisation
BBA	Bachpan Bachao Andolan (Save the Childhood Movement)
CLPRA	Child Labour and Adolescent (Prohibition and Regulation) Act, 1986
NCRB	National Crime Records Bureau
RTI	Right to Information Act
PENCIL	Platform for Effective Enforcement for No Child Labour
POSCO	Protection of Children from Sexual Offences Act, 2012
FIR	First Information Report
DM	District Magistrate
NCLP	National Child Labour Project
DPS	The District Project Society
SP	Superintendent of Police
SSP	Senior Superintendent of Police
UN	United Nations

EXECUTIVE SUMMARY

BBA has carried out this study with the objective of identifying the gaps in the implementation of the Child Labour (Prohibition and Regulation) Act 1986, determining causes for its perpetuity and formulating recommendations towards strengthening national efforts towards elimination of all forms of child labour by the year 2025 as per the UN Sustainable Development Goals.

Since the year 2017, an increase of 509% in the number of cases registered under the child labour law has been recorded, as per a study based on information sought under the RTI Act. However a comparison between this data, data provided by the National Crime Records Bureau across three years and the Census of India 2011 brings out the massive disparity which exists between the number of working children in India and the number of cases, registered and prosecuted. RTI replies from across the country revealed that no case of child labour was registered in the States of Haryana, Kerala, Jharkhand and Andhra Pradesh in the year 2017. Rajasthan and Bihar contributed 84% of the total cases registered.

Another glaring deficiency in the policy regime for abolition of child labour is non-disbursal or disbursal with huge delays of monetary compensation and the yawning gaps in efficient delivery of rehabilitation measures. A mere 8% of total child labour identified after the launch of the PENCIL software are being mainstreamed, i.e., are provided institutional, and financial rehabilitation. BBA's database on rescued child labourers reveals that out of 1151 rescued children only 524 were issued a release certificate. However, no monetary compensation was provided to any of these children by the State.

With respect to budgetary requirement, the estimated minimum budget requirement per year to rehabilitate and mainstream children rescued/withdrawn from labour under NCLP is 160 Cr. However, only INR 110.0 Cr has been allocated under the scheme in 2018-19 budget. It was also found that the budget allocated for the rehabilitation of child labourers under NCLP is constantly on a decline.

The report also provides a range of recommendations to address these gaps in protection, prosecution, rehabilitation and prevention of child labour in the country.

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1. BACKGROUND

According to the Census of India 2011, 10 million children are engaged in labour or seeking work. International Labour Organisation (ILO) estimates 152 million child labourers in the world; thus, India alone accounts for 7.2% of them.

Child labour in India is largely prevalent in the organised sector such as factories and manufacturing as well as in the unorganized sector such as agriculture, construction, mining and domestic work. The problem of child labour is magnified through large scale trafficking and bondage of children across the nation. The existence of child labour in the country not only violates the fundamental rights of a child to life, freedom, equality and his/her right against exploitation, it also perpetuates the cycle of poverty and illiteracy for generations.

The High Court of Delhi in WP (Crl) 2096 of 2005 *Save the Childhood vs. Union of India* provides the only existing definition of child labour in India that viz. ***“the system of employing or engaging a child to provide labour or service to any person, for any payment or benefit, paid to the child or to any other person exercising control over the said child.”***

Goal 8.7 of the Sustainable Development Goals 2030 as adopted by all United Nations in the year 2015 mandates that all Member States shall - *“Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”* In light of India accounting for 7.2% of all child labourers in the world, its global responsibility towards the achievement of this goal increases.

A landmark step in the endeavour to eliminate child labour in India was the enactment of the CLPRA. With the amendment to the child labour law in India in the year 2016, a considerable expansion of the applicability of the Act was achieved. This was followed by the prohibition of child labour in 99 occupations and processes (as compared to only 83 in the earlier version of the law), including within families and family enterprises; adolescents are now prohibited to work in 38 hazardous occupations and processes¹.

The government further strengthened their commitment for a child labour free India by ratifying the two Core Conventions of ILO; Conventions 138 regarding admission of age to employment and Convention 182 regarding worst forms of Child Labour in the year 2017. Recently, a digital platform ‘PENCIL’ was also put in place to ensure enforcement of the Act, by providing a mechanism for redressal of complaints.

Against this background, Bachpan Bachao Andolan (BBA) has carried out this research study called- “Child Labour- kNOw More” in 14 states of India. It is important to note here that this study pertains to the forms of child labour prohibited under the Child Labour and Adolescent (Prohibition and Regulation) Act 1986. As the National Crime Records Bureau does not report on the status of worst forms of child labour as provided in the ILO Convention No. 182 on the Worst Forms of Child Labour that was ratified by India in June 2017, therefore, no data is available regarding worst forms of child labour in India.

¹ Government notification S.O. 2827(E) by the Ministry of Labour as on 31st August 2017 (https://labour.gov.in/sites/default/files/Notification_to_amend_the_Schedule0.pdf)

2. STUDY OBJECTIVES AND APPROACH

The research study includes data from various secondary and primary sources. Secondary sources include Census of India 2011, National Crime Records Bureau's Crime in India Reports, Parliament questions and answers, and internal BBA database. In order to obtain primary data on the number of First Information Reports filed in Police stations in the 14 states information regarding the same was gathered by utilizing the provisions of the Right to Information Act, 2005.

The objectives of the study are the following:

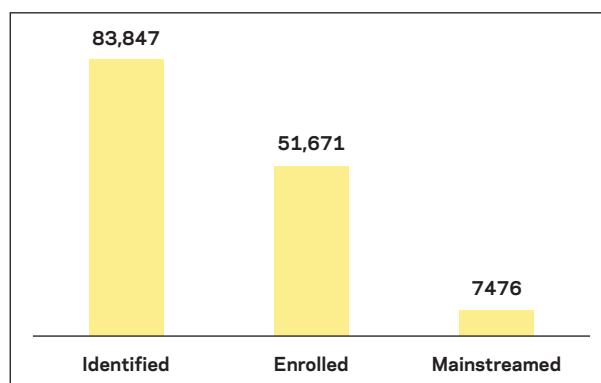
1. To explore the current status of India's efforts in complete elimination of child labour
2. To identify gaps in enforcement and rehabilitation regimes that help perpetuate the problem of child labour
3. To formulate recommendations for strengthening the enforcement regime and timely delivery of rehabilitation measures for children withdrawn from labour

According to The Census of India 2011, there are about 1.02 Crore children who are working in India. While this is the last official figure, it can be established from the way in which child labour is normalised in the society, that the actual figure of child labour would be much higher. The Home Minister has revealed that between January, 2015 to December 2017, 70,000 children had been rescued through Operation Smile and Operation Muskaan by the Ministry of Home Affairs. The PENCIL portal gives out an estimate of 83,847 child labourers, who were identified and 51,671 who were enrolled and another 7476 who were mainstreamed. It can be observed from Figure 1 that although more than 60% of children who are identified as child labourers are being withdrawn and enrolled in schools, but a mere 8% of them are being mainstreamed, i.e., are provided institutional, and financial rehabilitation.

3. FINDINGS AND DISCUSSIONS

The reason for this alarming gap between identification, enrollment and mainstreaming are multifold, including, protection mechanism not being linked with rehabilitation of children, insufficient funds allocation for rehabilitation of children and even when funds are available, child victims not receiving timely compensation. This inordinate delay caused in release of funds for rehabilitation due to same being contingent upon the conviction of the

Figure 1 Data on Child Labour from PENCIL Portal



Source: Pencil portal, accessed on November 15 2015

3.1 Status of Enforcement of the Child and Adolescent Labour (Prohibition And Regulation) Act (CLPRA), 1986

The analysis of data collected from 14 states by BBA raises some very serious concerns. Analysis has revealed that a total of 1121 cases of child labour were registered in 2017 in these states which meant that **only 3 cases of child labour per year are getting registered per district**. Some other findings of the research are given below:

- i Cases registered under CLPRA **increased by 509% in 2017** as compared to 2016
- ii As compared to 2016, the CLPRA cases under trial in 2017 increased **by 270%**
- iii The Baseline data suggests that in 2016 no child friendly Police stations and child friendly courts were available in these 14 states. However, information available till Aug'18 reveals that **728 child friendly Police Stations and 71 children friendly Courts** had been established in these 14 states
- iv Child Friendly Courts have been created with a mandate to try all cases pertaining to violation of child rights and offences against children and for the purpose of ensuring speedy trial. However, as of now only heinous offences like child sexual abuse (offences under POSCO) are being tried in these courts and not the cases of child labour

3.2 State-wise Figures

- i. **Rajasthan (47%) and Bihar (37%)** together contributed 84% of the total cases registered under CLPRA in India during 2017
- ii. No case of child labour was registered in states of **Haryana, Kerala, Andhra Pradesh and Jharkhand** during 2017
- iii. Less than half of the cases filed in 2017 were charge-sheeted. (514 out of 1121)

These statistics show that there has been an increase in lodging of FIRs (**509% in the last year**) **regarding child labour which could be because when CLPRA was amended in 2016, child labour became a cognizable offence**. However, if the total estimated incidence of child labour is kept in view, this number is abysmally low. With 4 out of 14 states not registering any cases under CLPRA in the year 2017, it is clear that the progress in reporting of cases is not uniform and the awareness about this serious violation of child rights and the will to combat the same is unevenly spread among the states of the country.

3.3 Reporting of Child Labour Cases During 2014-16

As can be observed from the BBA's data pertaining to registration of FIRs for 2017, that there is a wide gap in reporting of child labour cases and the prevalence of the crime. The scourge of child labour is seen daily in little children working with their families on sites of brick kilns, construction sites, home-based manufacturing units and so on. The enormous gap in enforcement which exists in enforcement of CLPRA can be gauged from the data presented below:

Table 1 Total Number of Child Labour in India and children rescued under CLPRA during 2014-16

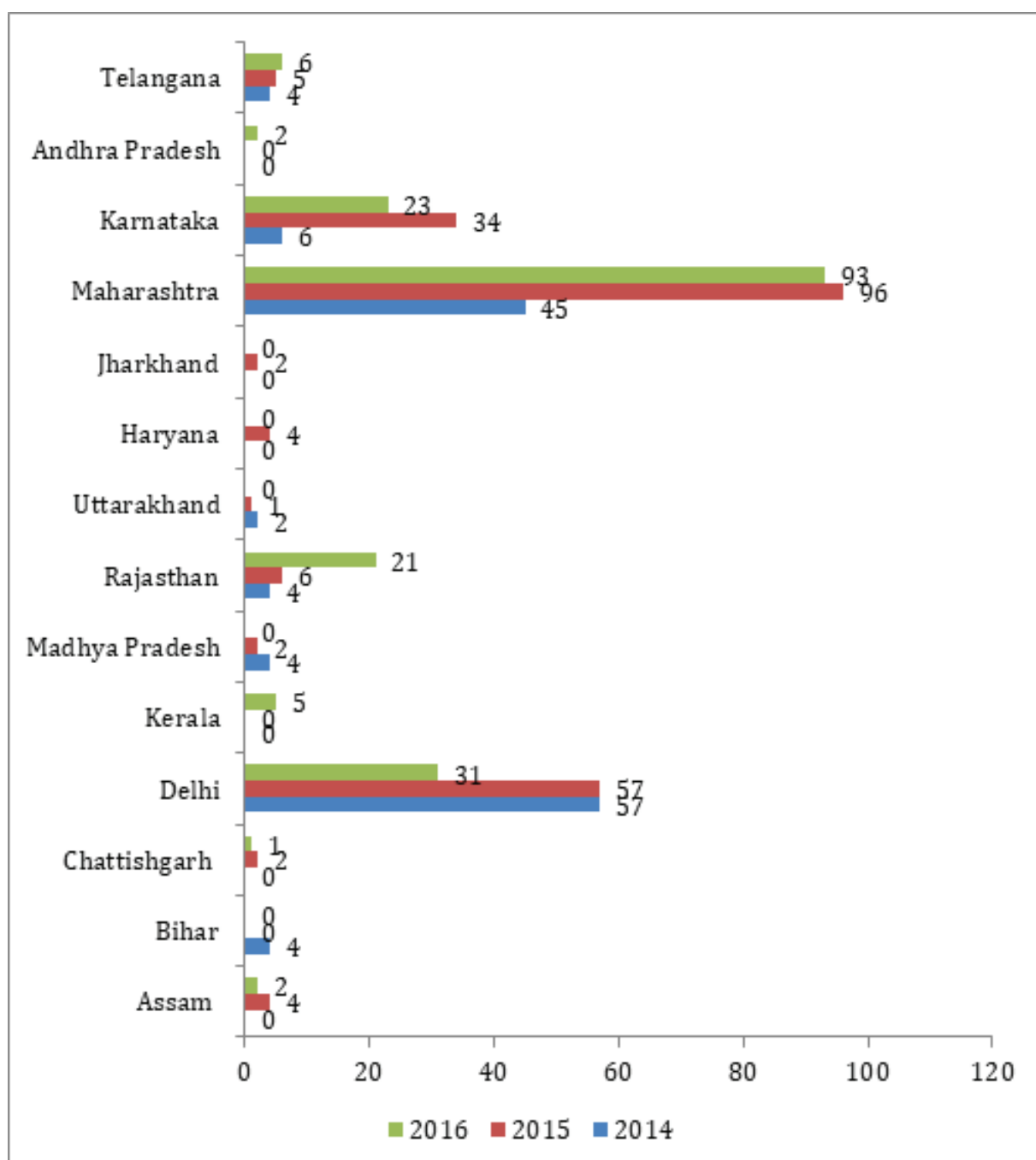
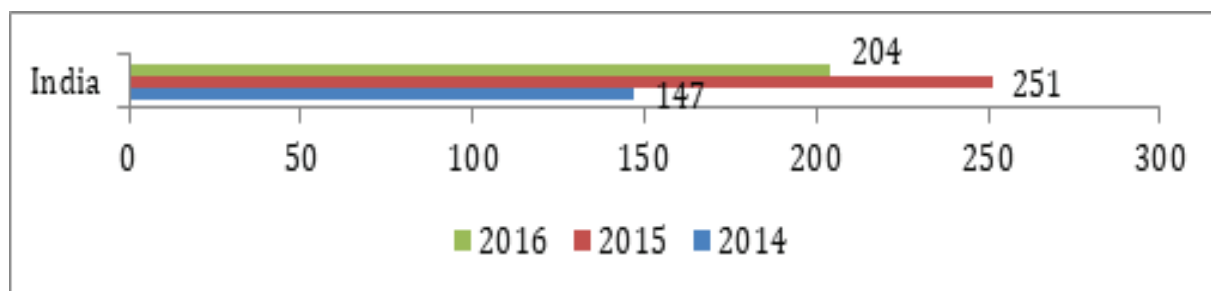
States	Total No of Child Lab as per Census 2011	Number of FIRs filed under CLPRA during 2014-16	Child labourers rescued under CLPRA during 2014-16
Assam	2,84,812	6	6
Bihar	10,88,509	4	4
Chattishgarh	2,57,773	3	3
Delhi	36,317	145	511
Kerala	45,436	5	6
Madhya Pradesh	7,00,239	6	6
Rajasthan	8,48,386	31	48
Uttarakhand	82,431	3	3
Haryana	1,23,202	4	4
Jharkhand	4,00,276	2	2
Maharashtra	7,27,932	234	340
Karnataka	4,21,345	63	193
Andhra Pradesh	3,43,973	2	2
Telangana	3,29,030	15	21
India	1,01,28,663	602	1,318

Table 1 very clearly demonstrates that only in a very miniscule number of cases (1,318 out of 1,01,28,663, i.e. 0.01%), child labour is being reported in India.

Upon further analysis of the National Crime Records Bureau's Crime in India reports, the following trends are also observed:

- States of **Jharkhand, Haryana, Kerala and Andhra Pradesh** show similar trends in reporting of child labour cases during 2014-16, with almost no cases of child labour being filed under CLPRA.
- Maharashtra and Delhi** are two states where the reporting of Child Labour cases was relatively higher than other states during 2014-16.

Figure 2 Number of FIRs filed under Child Labour (Prohibition & Regulation) Act during 2014-16



3.4 Rehabilitation of Rescued Children

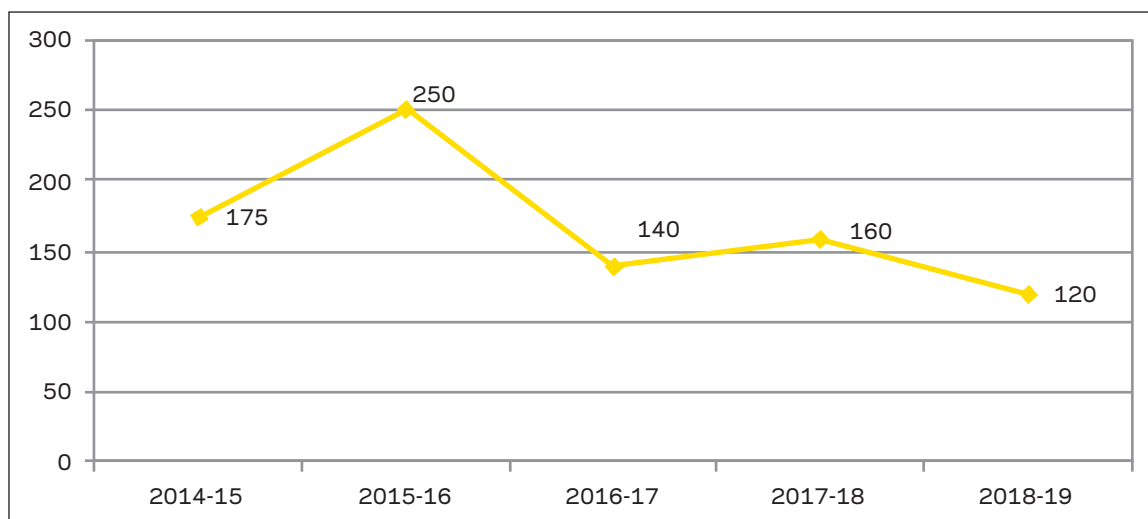
Analysis of the child labour related data of the internal BBA database on children rescued from situations of bonded labour and trafficking:

- i. Back wages recovered in 14 states is 42 lacs in 2017 for 1165 children.
- ii. 1151 children were rescued by BBA from situations of trafficking and bonded labour in 2017
- iii. Out of 1151 children rescued, 524 were recognized to be bonded labourers and were issued Release Certificates entitling them to a compensation of Rs. 15,72,00,000/- as per the Central Sector Scheme for Rehabilitation of Bonded Labour. 397 children were rescued below the age of 14, entitling them to a compensation of Rs. 79,40,000/- to be recovered from the employers. Against these entitlements, no money had actually been released to these children.
- iv. Woefully, no attempt has been made by any state to either create a system for monitoring the release of relief and rehabilitation package to the rescued child labourer and child bonded labourer nor are there any plans to create a centralised database for such monitoring.
- v. There is no information available with the state governments on the status of rehabilitation of the children and monetary compensations, other benefits and alternative employment to be provided to an adult member of their families (as per the Supreme Court judgment in MC Mehta v/s State of Tamil Nadu) received by them.

3.5 Budgetary Provisions and Requirements for Rehabilitation of Child Labourers

The budget head under which the financial provisions have been made for rehabilitation of child labourers is “National Child Labour Project (NCLP), including grants-in-aid to voluntary agencies and reimbursement of assistance to bonded labour”. The budget provision made under this particular head has fallen by 31% in past five years.

Figure 3 Budget allocation under NCLP including grants-in-aid to voluntary agencies and reimbursement of assistance to bonded labour in past five years (in Cr)



In order to make an estimation of the budget allocated for the NCLP during the last three financial years, following methodology was adopted. Such an estimation became necessary as the breakup of total budgetary allocation as given in Figure 2 is available only for one year viz, 2018-19. The estimation of budgetary allocation for NCLP for 2016-17, 2017-18 has been made assuming that the percentage/ fraction of the total budget for 2016-17 and 2017-18 was the same as it is for the current Financial Year. Using such an assumption, the following picture emerges:

Table 2 Approximate budget allocation under NCLP in last three years

Schemes	Percent distribution of funds as per 2018-19 budget estimates#	Financial Year wise budget allocation (in Cr.)			Total budgetary allocation in last three years (in Cr.)
		2016-17	2017-18	2018-19	
National Child Labour Project including grants-in-aid to voluntary agencies	92%	128	147	110	385
Reimbursement of assistance to bonded labour 'Central Sector Scheme for Rehabilitation of Bonded Labourer-2016'	8%	12	13	10	35
Total	100%	140	160	120	420

Source: #34th Standing Committee report on Demand for Grants (2018-19) of the Ministry of Labour and Employment

Table 3 Estimated minimum budget requirement per year to rehabilitate and mainstream children rescued or withdrawn from labour under NCLP

Year	No. of children rescued/ withdrawn from work, rehabilitated and mainstreamed under National Child Labour Project (NCLP) Scheme	Average No of children rescued/withdrawn from work per year	Minimum budget requirement per annum (@ INR 20,000 per child)
2013-14	64,050	79,918	1,59,83,66,667
2014-15	1,16,629		
2015-16	59,076		

Source: *Lok Sabha Unstarred Question No. 588, Dt. 6 Feb, 2017

As per the information presented above, the estimated minimum budget requirement per year to rehabilitate and mainstream children rescued/withdrawn from labour under NCLP is 160 Cr. However, only INR 110.0 Cr has been allocated under the scheme in 2018-19 budgets. In addition to the minimum budgetary requirements for rehabilitation, there is a further reduction in the allocation for funds for other operational costs like salary, monitoring costs, maintenance and administrative costs and so on. It is important to highlight here that without having spent the allocated funds on each of these aspects, the protection, prosecution, and prevention processes in eliminating child labour can never be wholly achieved.

4. CONCLUSION

As child labour is a subject in the Concurrent List, it can be concluded from the findings of the report that little is being done both by the State Government and the Central Government to create a legal deterrent against child labour. The Centre and the State both seem to have abdicated their responsibility leading to a great human rights abuse of the poor, marginalised and disadvantaged children of the country. For instance, the National Child Labour Project Scheme (NCLP) is put in place by the central government to eliminate all forms of child labour in India but the fallacies in its design and operationalization end up condoning child labour in the country. This failure of the scheme is primarily reflected in two of its features. First, the DM is not mandatorily required to report every case of child labour which comes to his/her notice. This is an inherent flaw in the design of the Project which contradicts with its objectives. Second, even if the crime is reported and the child is withdrawn from labour, due to lack of convergence among different government departments/agencies entrusted with the responsibility of providing the benefits to the child and his/her family; the rehabilitation of all child victims remains far from being attained. In addition to this, evidence-based knowledge on child labour trends in India is also not being gathered and placed in public domain.

The shared goal of a world free of child labour is urgent, and accomplishing requires strengthening of the enforcement of the CLPRA, increased awareness of child rights, greater convergence between different stakeholders in child protection, increase in funds allocated for children, and utilization of the existing funds for rehabilitation of children. It is only then that these victims will be able to fully realize their right to life, education, dignity, and development, in turn providing the essential foundation for a broader social and economic development, poverty eradication and human wellbeing.

5. RECOMMENDATIONS

Based on the study, following recommendations are made:

5.1 General Recommendations

- i. A time-bound and budgeted Plan of Action for Elimination of Child Labour at National and State level must be formulated within 6 months. The National and State Plans and Budgets must be formulated in consonance with each other, targeted towards achievement of Goal 8.7 of the UN Sustainable Goals for elimination of all forms of child labour by 2025.
- ii. There is a need to strengthen convergence amongst various agencies at the Central, State and District levels. The Central and State Monitoring Committees under the Sections 3.12 and 3.14 of the NCLP must be strengthened to mandatorily include all concerned departments including the women and child department, police department, education departments, etc. The frequency of the meeting of these committees must be increased to a quarterly basis at a State Level and bi-annually at the Central level. The District Project Society (DPS) as per Section 3.17 of the NCLP must mandatorily be set up in all districts, with meetings to be organised every month. Additionally, Chairperson of the Child Welfare Committee, the District Child Protection Officer, the SP/SSP, Member Secretary of the District Legal Services Authority must also be included in the DPS.
- iii. The allocation of budget for NCLP Scheme should be increased to fully provide for the economic compensation framework for child labour and bonded labour in children.
- iv. The Baseline Survey as per Sections 4.2 of the NCLP must be conducted in all districts, by using already allotted funds for this purpose. Data derived from this survey must be used for strengthening convergent action at levels as well as monitoring its implementation through expanding the scope of the PENCIL software.
- v. Child Budgetting to be introduced in the national budgeting process to prioritise the safety, education and health of children in the nation's development process. This would mean the allocation of a section of the budget for child welfare activities my government departments such as Ministry of Home Affairs, Ministry of Drinking Water and Sanitation, Ministry of Panchayati Raj Institutions, Ministry of Urban Planning, amongst others.
- vi. A government assessment of the status and impact of Central Sector Scheme for Rehabilitation of Bonded Labour, 2016.
- vii. Inclusion of the Child and Adolescent Labour (Prohibition and Regulation) Act 1986 and The Bonded Labour System (Abolition) Act 1976 in Section 166A of the Indian Penal Code.

5.2 PREVENTION

- i. Free and Compulsory Education up to Class XII must be made an entitlement by carrying out necessary amendments in the Right to Free and Compulsory Education Act 2009.

- ii. Special attention should be paid by States towards ensuring access to free education and crèche services for children of persons employed in vulnerable settings such as – mines, brick kilns, stone quarries, agriculture and construction sites.
- iii. All social welfare and security schemes should be made easily available to socially and economically vulnerable families, by a door-to-door service delivery model, specifically in rural areas.

5.3 Reporting & Registration

- i. Mandatory reporting of child labour incidents by members of the NCLP.

5.4 Prosecution

- i. Day-to-day trial must be conducted in cases of crime against children in Children's Court set up as per Section 25 of the Commission of Protection of Child Rights 2005.
- ii. Time-bound (60 days) investigation of cases of child labour should be ensured.

5.5 Rehabilitation

- i. Compensation/recovery of money from the employer of the child labourer available as per M.C Mehta vs. State of Tamil Nadu and Ors. WP (C) No. 465 of 1986, should be hiked from Rs.20,000 to Rs. 2 lakhs in light of increase in cost of living in the past 32 years. This is to be recovered as a civil fine as arrears of land revenue, as directed by the Hon'ble High Court of Delhi in Save the Childhood vs. Union of India WP(C)2069 of 2005.
- ii. The recovery of final compensation as per the Central Sector Scheme for Rehabilitation of Bonded Labour, 2016 should not be linked with conviction and instead to the issuance of release certificate after due inquiry by the District Magistrate.
- iii. A Standard Operating Procedure for release and tracking of compensation to survivors and time-bound (90 days) rehabilitation of the child.



A 23, Friends Colony West, New Delhi 110065 Ph No - +91 11 475111 11

✉ info@satyarthi.org

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