

Minutes of the Meeting of Central Advisory Board held on 20th January, 2012 at 3.30 P.M. under the chairmanship of Hon'ble Minister (Labour & Employment)

1. A meeting of Central Advisory Board was held under the chairmanship of Hon'ble Minister, Labour & Employment on 20th January, 2012 at 3.30 P.M. at the Committee Room B, Shram Shakti Bhawan, New Delhi. The list of participants who attended the meeting is enclosed as Annexure.

2. Shri Anup Chandra Pandey, Joint Secretary (L&E) welcomed all the members to the first meeting of the Central Advisory Board and wished them a very happy and prosperous new year. He stated that the meeting has been convened at a crucial juncture when the Ministry has been contemplating a comprehensive amendment in the existing Child Labour (Prohibition & Regulation) Act, 1986. He informed that India is a permanent member of ILO. However, we are the one country which so has not ratified any of the two core convention on Child Labour i.e. Convention No. 138 for notifying a minimum age for employment and Convention No. 182 worst forms of Child Labour. He stated that with the issues proposed for Amendment of the Child Labour Act, there would not be any hindrances in ratify the ILO core Conventions. Joint Secretary (L&E) stated that since it was a newly constituted board and all the members were new so he requested the members of the Board to introduce themselves.

3. All the members introduced themselves, one by one.

4. Shri Mrutyunjay Sarangi, Secretary (L&E) also welcomed all the members of the newly constituted Board and wished them a very happy & prosperous new year. He stated that the meeting was convened to discuss the proposed amendment of the Child Labour (Prohibition & Regulation) Act, 1986. He stated that Child Labour is an area of great concern in India. The Government is committed to eliminate the Child Labour by following a multi-pronged strategy to tackle the problem which comprises of statutory and legislative measures, rescue and rehabilitation, universal primary education along with social protection, poverty alleviation and employment generation schemes. The main objective is to create an environment where the families are not compelled to send their child to work. As per NSSO, there has been an appreciable decline in the trend of Child Labour in the age group of 5 to 14 years of age in India, during this plan period. The Child Labour Act was enacted to ban employment of children below the age of 14 years in factories, mines and other hazardous occupations. At present, there are 18 hazardous occupations and 65 processes that are specified under the Act. He also stated that Child Labour Act may now be seen in light of Right to Education Act, 2009. The RTE had made it mandatory for every child to be provided free and compulsory education. As poverty is one of the main reasons of Child Labour, it could be resolved through convergence of various welfare schemes carried out by the Government like Mid Day meal, MGNREGA, RSBY, NCLP, etc. The Child Labour Act has

been in operation for more than 20 years and needs to be revisited on account of societal changes. Secretary (L&E) stated that there is a fast emerging global consensus for protecting child rights. He also stated that ours is one of the few countries who have not ratified convention 138 and convention 182 of the ILO for providing a minimum age of employment and worst forms of Child Labour, respectively. He further emphasized that legitimate place of a children is at school and not workplace and we should work for complete elimination of Child Labour.

4.1 Secretary(L&E) stated that the meeting has been convened to discuss on the amendment of the Child Labour Act, 1986, and the issues relating to it. The matter has also been discussed in the CMC meeting held in on 4/01/2012, wherein the issues pertaining to the agenda item has been were discussed in details. All most all the participant's overwhelmingly supported the issue that Child Labour for the Children between the age of 0-14 should be prohibited and Children/adolescents below the age of 18 years should be prohibited for working in hazardous occupation and processes.

4.2 On the issue of punishment to the parents under Child Labour act for sending their children to work, there was a mixed reaction.

4.3 On the issue of responsibility for implementation of the act to be given to district magistrate, no clear cut consensus emerged in the meeting.

4.4 On the issue of making inspection and Monitoring separate from Rehabilitation of Child Labour by allocating the task of monitoring and

inspection of Child Labour to Labour department and entrusting the rehabilitation of the Child Labour to be to Ministry of WCD or Ministry of Human Resource Development, the CMC in general was of the view that monitoring, inspection are an integral part of rehabilitation of Child Labour. Separating the both could create co-ordination problem. As such, the Labour department should continue do the whole activity.

4.5 Regarding the issue of making the offence under Child Labour Act cognizable, Secretary(L&E) stated that the CMC was of the view that it would create unnecessary harassment to the ordinary people. So it was suggested that the quantum of penalty to be increased so that it act as a deterrent to the offenders.

4.6 Secretary(L&E) stated that the Ministry is contemplating amendment of the existing Child Labour Prohibition & Regulation) act, 1986 and would be coming out with the Cabinet Note in this regard. He urged the members of the board on Child Labour to intimate their views on the agenda items so that while preparing the Cabinet Note the same could be considered.

5. Hon'ble Minister for of Labour & Employment in his speech presented a brief on the existing provisions in Child Labour (Prohibition and Regulation) Act, 1986 and operation of NCLP schools by the Ministry. He also presented a brief on the GIA scheme of the Ministry for elimination of Child Labour. He further gave a brief on various other social sector schemes being implemented by Government of India like

implementation of Right to Free and Compulsory Education Act, 2009 and Mid day Meal Scheme by ministry of human resource Development, MGNREGA scheme, Integrated Child Protection Scheme of Ministry of Women & Child Development which has a bearing directly or indirectly towards elimination of Child Labour. He intimated the quantum of funds being spent by Government on these schemes and also the No. of direct beneficiaries of the schemes.

5.1 Hon'ble Minister for of Labour & Employment stated that due to all out efforts of Government of India, there has been a decline in trend of economically active children in the age group of 5-14 years from 90.75 lakhs as per 2004-05 survey to 49.84 lakhs as per 2009-10 NSSO survey, which shows a decline of 45 percent. He stated that though the figure has been challenged by many civil bodies, but we must have faith on the survey of Government agencies so the NSSO figure must be considered as authentic.

5.2 He stated that the meeting has been called mainly to discuss the important issue of Amendment of Child Labour Act. He stated that the Ministry already had a meeting with the various Secretaries and also with various Government representatives in a meeting convened by Secretary on 4/11/2012. Now, before putting up the proposal to the Government for approval the Ministry also would like to have detailed discussion with the civil bodies to have their views on the amendment proposal. He wished with the views members of the board, we would be able to make the Child

Labour Act stronger, which would eventually set the tone towards brighter future for millions of our children. He thanked all members of the Central Advisory Board for having spared their valuable time to attend the important meeting.

6. Shri Direndra Prasad (BMS) stated that the condition of NCLP schools in Bihar is not good. Many schools are closed due to delay/not receipt of fund regularly. He suggested for opening up of residential facility in the NCLP School in every district and emphasised on for short transit home for Child Labour in every state under Ministry of Labour & Employment. He suggested for conducting at least one survey on Child Labour in every district and setting up of Child Labour Commission in every state.

7. Shri R A Mittal(HMS) thanked Hon'ble Minister for calling the meeting of the Central Advisory Board so quickly after it has been reconstituted. He also appreciated the views of the Ministry on the ratification of ILO convention No. 138 & 182 as the same has been one of their main suggestion. He expressed his resentment for not receiving the agenda points for the meeting before coming to the meeting. However he stated HMS supports the agenda circulated by the ministry in total.

8. Smt. Ranjana Narula (CITU) stated that they are also having a broad agreement on the agenda item of the Ministry on amendment of

Child Labour Act, 1986. She stated that the women worker working as a cook under Mid Day Meal scheme are getting a mere amount of Rs 1000/- which is not adequate for taking care of their kids and most of their children are out of school. She suggested that a proper survey need to be conducted on this. She also emphasised on the need for ensuring minimum wage to all so called volunteers working under various scheme of Government.

9. Ms. Kajal Menon stated that the child line is operational in almost 183 districts in the country. As per their estimate the number of Child Labour is much more than the figure projected by the NSSO. She felt that the methodology adopted by the survey which shows decline of Child Labour need to be revisited. As regard to point No.5 of the Agenda regarding giving overall responsibility for implementation of the Act to District Magistrate she informed that there is no issue but the overall responsibility should be with the Ministry of Labour. She emphasized that there is a need for convergence between Ministry of Labour, WCD and HRD on the issue monitoring and rehabilitation of Child Labour and the aspect need to relook critically and the responsibility of each Ministry should be clearly defined.

10. Shri Mantesh Patil stated that presently he does not have any comment on the agenda. However, if felt necessary, the comments will be intimated in due course.

11. Shri T.Amarnath stated that a copy of the presentation given by the Ministry may be given to them and if required, comments will be furnished later.

12. Shri Sarad Patil (EFI) stated that they support the proposal of the Government regarding amendment of the Child Labour Act. He however suggested that there is a need for increase in the awareness on the Child Labour and strengthening the implementation of the Child Labour Act.

13. Shri S.A.Khan (SCOPE) stated that they support the proposed amendments. He suggested that there is a need for community workforce for abolition of Child Labour. He further submitted that at District level there should be some mechanism to identify industries related Child Labour.

14. Ms. Monideepa Ghosh (CINI ASHA) stated that there is a large instances of Child Labour in West Bengal specially in the District at Malda & Murshidabad. Since West Bengal is one of the source of Child Labour in the country so there is a need for opening more number of NCLP schools in the State. She emphasized on the need for convergence between the schemes like ICPS & NCLP.

15. Ms. Tharahai Cuthbert stated that the proposed amendment does not cover any incentive for fishermen's children. In her district (Nagercoil) kids above 8 years are not going to school for study. Many of them are

going the high sea with their parents. Similarly she stated that in cracker's factory in Shivakashi and Tripur 80% of the Child Labour are below 12 years. Similar happenings can also be seen in match factory in the district. She stated that these figures are generally hidden as the children are working from their home.

16. Shri R.K. Prasad, NIRD Hyderabad stated that NIRD was involved in the implementation of the programme like IPEC, INDUS which were successfully implemented by ILO. He stated that the model of this programme could be incorporated in the NCLP. He further stated that under Nirmal Gram Yojna Programme there is provision for social auditing wherein there is a need for mainstreaming of the issues of Child Labour. Similarly under Pradhan Mantri Adarsh Gram Yojna the issue of Child Labour need to be mainstreamed as there could not be any model village with Child Labour. He also emphasized the need for mainstreamed the issue of Child Labour as a part of the Corporate Social Responsibility of the industry. He emphasized that there should be clarity in the definition of the Child Labour as many child who are going to school and working in free hours should not be considered as a Child Labour.

17. Prof Anne Shalley stated that there is a need for introducing more meaningful vocational training for the children so that after passing from the NCLP schools they are at least in a position to earn their livelihood. She stated that stipend given to the children in the NCLP schools is low,

the same may be increased. As regard to the issue of penalizing the parents, she stated that many children are being forced by their parents to work so they should be held responsible for the same. There is a need to sensitize the parents on the need for education for the children.

18. Shri M.L. Dhawan, Lagu Udyog Bharti, emphasized that the labour laws should be implemented only by the Labour Department. He stated that the offence under Child Labour Act should not be made cognizable but to make it deterrent the penalty for the offender should be hiked.

19. Dr. Helen Shekhar, NLI stated that Violation of Section 3 in the CLPR Act should be declared cognizable and. Under J.J.Act there is a higher provision for penalty so the penalty provision under Child Labour should be in parity with the provisions of the JJ Act. With regard to the issue that "under no circumstances whatsoever should parents and guardians of children be punishable under this Act". She stated that the terminology of the guardians need to be clarified, otherwise, the situation of employers employing children in exploitative work, under the mask of guardians, will continue to prevail as it is happening in many scattered manufacturing units, single process and multi-process units, etc. With regard to the issue "There should be no bar on children helping their families after school hours and in vacations, in fields, home-based work, forest gathering and vending" Dr. Sekar suggested that the terms home-based work and vending needs to be looked at more closely in view of the

fact that this terms has too many loopholes. Home-based work should be specified to exclude any work where there is subordinate labour relationship or work that are outsourced and carried out in homes. This would ensure that children are not employed in the work which the employers strategically plan to be carried out through putting-out system. Similarly, vending should be specified that it restricts to the vending activity of the family. This would ensure that children are not made to carry out vending on the streets as mobile vendors or as fixed location vendors or weekly bazaar vendors for disguised employers.

Once the policy is to exclude altogether all the children below 14 years working in hazardous occupation, it is necessary to prohibit them to be employed in any kind of occupation or workshop, even if it is carried on by his own family or receiving assistance from the Government. Retention of this provision is likely to altogether make this provision impossible to implement, as the occupier can in one way or other, defend employment of children by showing that they have been receiving some form of assistance from the government, or their operations are recognized by the Government or telling that the children are his own children as the onus of proving is not on the employers but on the prosecution.

20. Shri Manoj Bagri stated that all the factories at their entrance should have a board clearly indicating that employment of children below 14 years is prohibited. He stated that as per survey it has been found that most of the children are working a Bangle factory of Ferozabad and

Lock Factory of Aligarh and Match and cracker factory in Sivakashi. So special scheme need to be taken up from these districts and if successful, the model can be replicated in other places.

21. Ms. Raj Rani Poonam stated that the members of the Central Advisory Board may be given the responsibility of reporting the instances of Child Labour in their States.

22. Shri Amod Kant (Prayas) supported the banning of Child Labour upto the age of 14 years in all forms. He emphasised on the principal that all the out of school children are possible Child Labour and stated that SSA survey are being conducted on the out of school children. Beside this, many out of school children are also not working. He stated that the figure of NSSO on the declining trend of Child Labour by 45% is doubtful and the methodology of the survey needs to be looked into. **He stated that he do not agree with the proposed issue regarding not punishing the parents or guardian of the Child Labour as many of them perpetrator in the sale or trafficking of their children and under IPC it is considered to be cognizable offence so one illegality cannot be made legal in other Act.** JJ Act has got some provision for punishing the offending parents. The proposed amendment of the CLPRA should be in parity with the Juvenile Justice Act or it should be silent. Otherwise, it will be contradicting the Juvenile Justice Act. The amendments in the CLPR Act should be carried out in such a way that it

should harmonize with both Right of Children to Free and Compulsory Education 2009 and Juvenile Justice Act. He also stated that the Child Labour Act should not be in conflict with RTE & JJ Act. As such he said that he did not agree with the issue under the agenda for splitting the administrative framework of Child Labour. NCLP should have a component of education as well as vocational training. Stipend and salary should be much better.

23 Ms. Sunita Sangi, Advisor, Planning Commission stated that they are in agreement with the proposed agenda for amendment of the Child Labour Act.

24. Ms. Farida Lambay (PRATHAM) stated that NCLP school should be considered as special schools and should not be in conflict with the provisions of RTE. She stated that it has been observed that the parents are many times involved in selling of children so they do not agree with the proposal for not punishing the parents/guardians under Child Labour Act and similar provision also exists in JJ Act. Implementation of law is important. It should not take a long time to punish the violator. The punishment should have a deterrent effect not only on the violator of CLPR Act but also on the society as a whole.

She stated that a Task Force has been formed in Maharashtra under the Chairmanship of Chief Secretary wherein every department has well defined the role and they identify and conduct raid on Child Labour. With this there has been a decline in the instance of Child Labour upto the age

group of 5-14. However in the age group of 15-17 Child Labour still exist and there is a need to give special emphasis on this group also.

25. Shri Manica Tagore stated that he do not agree with many of the members and is of the view that the NCLP schools in Virudhnagar is functioning very well. Many of the children from NCLP school have become engineers and doctors. He stated that he agree with the issue of giving the District Magistrate them the additional responsibility for implementation of the Child Labour Act. He, stated that there is a need for allocating the responsibility to the civil society and elected representative of the Central Advisory Board for monitoring the Child Labour in the State.

26. Shri Shisupal Singh, Vice President welcomed the members of the committee and stated that since he hails from the State of Rajasthan so he has visited some of the Child Labour schools in the State. However, he found that the schools are not working properly. Many of the schools are closed and the quantum of the honorarium given to the teachers as well as the stipend given to the students a low. He emphasized on the need for vigorous media campaign against employment of Child Labour.

27. Hon'ble LEM stated that the stipend, the honorarium of the volunteers working in the Child Labour schools, NCLP project societies has already been enhanced is appreciably. He circulated copy of the Office

Memorandum to all the members which indicates increase of the honorarium by nearly threefold for the volunteers working in the NCLP project society and schools. The stipend for the children has already been increased from 100 to 150 per month per child.

28. JS(AP) stated that the EFC memorandum for revision of NCLP scheme as well as the proposal for 12th Plan submitted to the Planning Commission cover lot of change in the NCLP schemes which, includes provision for residential accommodation, creation of the district level society, creation of monitoring cell at the state and national level, provision for medicine for the Children. With this the NCLP scheme would become Fmore attractive and monitoring could be made more effectively. As regards to the children of the fishermen working in the high sea he stated that provision will be made in the Act to cover these children. He further stated that as suggested by many members some kinds of differentiation would be worked out between guardians and legal guardians. He informed that sine more than 90% Child Labour are working in informal sector so there is a necessity for involvement of district administration for implementation of the Child Labour Act. He emphasized that Ministry of Labour would ensure that district Child Labour division are constituted in every state. For complete elimination of Child Labour schemes under Ministry of Labour, the RTE, JJ Act and the Child Labour Act are important pillars and convergence of these schemes at state level district level and field level would be worked out and

Ministry of Labour & Employment would be the coordinating Ministry for this.

28. Secretary (L&E) stated that there is no dearth of Acts, Laws and Rules regarding Child Labour. The problem lies in the implementation of the same. He requested the Board Members to visit the NCLP schools and inform about any discrepancy observed directly to the Minister, Secretary or JS and immediate action will be taken in this regard.

29. The meeting concluded with the thanks to the Chair.

Annexure

The list of participants of Central Advisory Board Meeting held on 20th January, 2012

Smt./Shri

- | | | | |
|----|------------------------------------|---|---------------------------------|
| 1. | Mallikarjun Kharge, Hon'ble LEM | - | Chairman |
| 2. | Mrutyunjay Sarangi, Secretary (LE) | - | Vice Chairman |
| 3. | Shishupal Singh | - | Vice Chairman
(Non-official) |
| 4. | A.C. Pandey, JS (CL) | - | Member Secretary |

Member

- | | | |
|-----|---|--|
| 5. | Manicka Tagore, | MP (LS) |
| 6. | Sunita Sanghi, | Advisor, Planning Commission |
| 7. | Premjit Lal, | Director, M/o Urban Development |
| 8. | Lopamudra Mohanty, | DS, M/o Women & Child Development |
| 9. | Dr. Helen R. Sekar, | Fellow, VVGNI |
| 10. | K.K. Mohanadas, | US, M/o Textile |
| 11. | Raj Rani Poonam, | |
| 12. | Manoj Bagri | |
| 13. | Anna Shalley | |
| 14. | Rajashaker Ramaswamy | |
| 15. | Tharahai Cuthbert | |
| 16. | Amarnath T. | |
| 17. | Mahantesh S. Patil | |
| 18. | Bonu Thrimurthulu | |
| 19. | Dr. R.R. Prasad, Director & NIRD, Hyderabad | |
| 20. | Amod K. Kanth, Secretary | Prayas (NGO) |

21. Devasmita (Kajol) Menon,	Child Line India Mumbai
22. Monideepa Ghosh, Asst. Director	CINI Asha
23. Farida Lambey,	Pratham
24. Dharendra P.D. Singh,	BMS
25. Ranjana Nirula, Secretary,	CITU
26. R.A. Mital, Secretary,	HMS
27. S.A. Khan,	SCOPE
28. Sharad S. Patil,	EFI
29. Shitangshu Taye,	FICCI
30. M.L. Dhawan	Laghu Udyog Bharti
31. Jeewan Sharma,	Planning Commission
32. SS.Tiwari,	PIB
<u>Ministry of Labour</u>	
33. Goutam Roy,	Director Child Labour
34. H.K. Jethi, Director	Director Child Labour
34. G A R Raghuvanshi	Under Secretary (CL)
35. B Neerja	Under Secretary (CL)
36. Kuhali Soren Choudhary	S.O
37. A K Biswas	S.O
38. Sanjay Singh	S.O