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**STANDING COMMITTEE ON LABOUR
(2013-2014)**

FIFTEENTH LOK SABHA

MINISTRY OF LABOUR AND EMPLOYMENT

**THE CHILD LABOUR (PROHIBITION AND
REGULATION) AMENDMENT BILL, 2012**

FORTIETH REPORT



LOK SABHA SECRETARIAT

December, 2013/Agrahayana , 1935 (Saka)

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REGULATION) AMENDMENT BILL, 2012**

Presented to Lok Sabha on 13th December, 2013

Laid in Rajya Sabha on 13th December, 2013



LOK SABHA SECRETARIAT

NEW DELHI

December, 2013/Agrahayana, 1935 (Saka)

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INTRODUCTION

I, the Chairman of the Standing Committee on Labour having been authorized by the Committee to submit the Report on their behalf, present this Fortieth Report on 'The Child Labour (Prohibition and Regulation) Amendment Bill, 2012' of the Ministry of Labour and Employment.

2. The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 was introduced in Rajya Sabha on 4th December, 2012 and referred to the Committee by the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha for examination and report within three months from the date of publication of the reference of the Bill in Bulletin Part- II of Lok Sabha dated 12th December, 2012.

3. In the process of examination of the Bill, the Committee invited the representatives of the Ministry of Labour and Employment on 7th February, 2013 and heard their views. The Committee also sought written information on various aspects of the Bill from the Ministry.

4. The Committee further invited the views/suggestions on the Bill from individuals/experts/institutions interested in the Bill through a Press Communiqué.

5. The Committee invited the representatives of NGOs/ Experts/ Statutory bodies to hear their views/suggestions on the proposed amendments in 'The child Labour (Prohibition & Regulation) Amendment Bill, 2012'.

6. The Committee also undertook an on-the-spot study visit to Vishakhapatnam, Hyderabad and Mumbai from 27-29 July, 2013 to hear the views of various NGOs/Experts/Institutions on the amendments proposed in the Bill.

7. The Committee further took oral evidence of the officials of the Ministries of Women & Child Development and Human Resource Development along with the Ministry of Labour and Employment

on 18th November, 2013 on the proposed amendments by the Government.

8. The Committee considered and adopted their draft Report on the Bill at their sitting held on 11th December, 2013.

9. The Committee wish to express their thanks to the representatives of Ministry of Labour and Employment, Women & Child Development, Human Resource Development and representatives of NGOs/Experts/Statutory Bodies for tendering evidence before the Committee and furnishing written inputs/suggestions on the amending Bill.

10. For facilitation of reference and convenience, the observations and recommendations of the Committee have been printed in bold in the body of the Report.

New Delhi;
12 December, 2013
21 Agrahayana ,1935 (Saka)

DARA SINGH CHAUHAN,
CHAIRMAN,
STANDING COMMITTEE ON LABOUR

COMPOSITION OF THE STANDING COMMITTEE ON LABOUR

(2013-14)

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SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri P.V.L.N Murthy - Director
3. Smt. Bharti S. Tuteja - Deputy Secretary

REPORT
CHAPTER-I

Introductory

The Child Labour (Prohibition and Regulation) Act, 1986 provides for prohibition of the engagement of children in certain employments and for regulating the conditions of work of children in certain other employments.

1.2 Ministry of Human Resources and Development has enacted RTE Act 2009. Under RTE Act, a child means male or female child of the age of six to fourteen years. It envisages that it shall be the duty of the State to ensure free and compulsory education to all children below the age of 14 years. The objective of the amendment of the Child Labour Act is also to ensure that all children between six to fourteen years are in schools rather than at workplaces.

1.3 Besides, India is a founder Member of International Labour Organization (ILO). ILO has passed Convention 138 and Convention 182. Convention 138 provides that the minimum age for admission to employment or work shall not be less than the age of completion of compulsory schooling. Convention 182 provides employment of all the children below 18 years should be prohibited in worst forms of Child Labour. However, the main problem preventing Government of India from ratifying Convention 182 is that the Convention provides for prohibition of employment of children below 18 years in hazardous occupations & processes, whereas in India as per Child Labour (Prohibition & Regulation) Act, 1986 persons above 14 years can work in hazardous occupations and processes.

1.4 Through the Child Labour(Prohibition and Regulation) Amendment Bill,2012 it is proposed to prohibit employment of children below the age of 14 years in all occupations and processes to facilitate their enrolment in schools in view of the Right of Children to Free and Compulsory Education Act, 2009 and to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes and to regulate the conditions of service of adolescents in line with the ILO Convention 138 and Convention 182, respectively.

1.5 The salient features of the Bill are as follows—

- (i) the amendment of the long title of the said Act in view of the proposed provision to prohibit employment of children below fourteen years in all occupations and processes and the proposed provision to

prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes set forth in the proposed Schedule;

(ii) the amendment of the short title of the said Act in view of the insertion of the proposed new definition of “adolescent” whose employment in hazardous occupations and processes is also proposed to be prohibited;

(iii) the insertion of a new definition of “adolescent” that means a person who has completed his fourteenth year of age but not completed his eighteenth year in section 2 of the said Act;

(iv) the amendment of the definition of “child” to provide that child means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;

(v) the amendment of section 3 of the said Act to prohibit employment of children in all occupations and processes except where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home;

(vi) the insertion of a new section 3A to prohibit employment of adolescents in any hazardous occupations and processes specified in the proposed Schedule;

(vii) the amendment of section 4 of the said Act to empower the Central Government to add or omit any hazardous occupations and processes from the Schedule to the proposed legislation;

(viii) the omission of Part III of the said Act in view of the prohibition of employment of children below fourteen years of age in all occupations and processes;

(ix) the amendment of sub-section (1) of section 14 to enhance the punishment from imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, to imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which

shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both, for employment or permitting any children to work in any occupations or processes in contravention of section 3. However, the parents or guardians of such children shall not be liable for such punishment unless they permit such children for commercial purposes;

(x) the insertion of new sub-section (1A) in section 14 to provide punishment of imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both for employment or permitting to work any adolescent in any hazardous occupations or processes. However, the parents or guardians of such adolescents shall not be liable for punishment unless they permit such adolescents to work in contravention of the provisions of section 3A;

(xi) the amendment of sub-section (2) of section 14, which provides punishment for the convicted offender who commits a like offence afterwards, to enhance the minimum punishment existing therein from six months to one year and maximum punishment from two years to three years;

(xii) the insertion of a new section 14A to provide that the offences under the proposed legislation shall be cognizable notwithstanding anything contained in the Code of Criminal Procedure, 1973;

(xiii) the omission of the provisions of clauses (a), (b) and (c) of sub-section (3) of section 14 of the Act in view of the prohibition of the employment of children below fourteen years in all occupations and processes;

(xiv) the insertion of new section 17A to empower the appropriate Government to confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of the proposed legislation are properly carried out and to empower the District Magistrate to specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer in accordance with the rules made by the appropriate Government;

(xv) the insertion of new section 17B which empowers the appropriate Government to make periodic inspection or cause such inspection to be made, of the places at which the employment of the children is prohibited and the hazardous occupations or processes are carried out,

at such intervals as it thinks fit, and monitor the issues, relating to the provisions of the Act; and

(xvi) the substitution of the existing Schedule to the Act by new Schedule in view of the prohibition of children in all occupations and processes and regulation of employment of adolescents in hazardous occupations and processes.

CHAPTER-II**CLAUSE BY CLAUSE ANALYSIS OF THE CHILD LABOUR
(PROHIBITION AND REGULATION) AMENDMENT BILL, 2012'****I. Amendment of long title.**

2.1 In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”

2.2 The Ministry in their explanatory note to the amendment stated as follows:-

“The Child Labour (Prohibition & Regulation) Amendment Bill, 2012 proposes to amend the Child Labour (Prohibition & Regulation) Act 1986, which inter-alia proposes to amend the “long title” of the Act so as to prohibit employment of child in all occupations and Processes and also prohibit the employment of adolescent in the scheduled occupations and regulate the condition of their working in other occupations.”

II. Amendment of short title.

2.3 In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986”, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986” shall be substituted.

2.4 The Ministry in their explanatory note to the amendment stated as follows:-

“The Child Labour (Prohibition & Regulation) Amendment Bill, 2012 proposes to amend the Child Labour (Prohibition & Regulation) Act 1986 inter alia, to prohibit employment of child and also prohibit the employment of adolescent in scheduled occupations and regulate the condition of their working in other occupations.”

2.5 As regards no provisions as to regulation of child/adolescent labour in the Act, the Ministry in their written replies stated:

“...With regard to Regulation, while it is true that Part III of the Principal Act is proposed to be deleted because all child labour will be prohibited as per the Amendment Bill, but Rule making power under Section 18 of the Principal Act Section 18 stays...”

2.6 On being asked about the prescribed authority in cases of disputes as to the age after the omission of part III, the Ministry replied:

“Provisions for determining the age of the child are there in Sec 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000 and sec 104 of the Factories Act, 1948. Hence no separate provision has been made in the current Amendment Bill.”

2.7 One of the major concerns is the welfare of children working in Audio Visual entertainment industry, when asked about the specific steps taken to save these children from exploitation both at the hands of their parents and industry, the Ministry replied:

“The basic purpose of the Child Labour (Prohibition and Regulation Act, 1986, is to safeguard the childhood of every child in our country and to see that each and every child goes to school. In the Amendment Bill it has been clearly brought out that there would be no bar on children helping their families after school hours and in vacations, in fields, home-based work (other than for commercial purposes), forest gathering and also learning skills in schools and technical institutions. As such as long as child works after school hours or during his/her vacation in the job which is not detrimental to his /her physical/mental health or the work which is done purely for non-commercial purpose, there is no ban on his/her work...any child employed in a subordinate relationship of labour or work which are

outsourced and carried out in home, would be in contravention of the Act, and this would include children in the audio visual industry.”

III. Amendment of section 2.

2.8 In section 2 of the principal Act,—

(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following shall be inserted, namely:—

‘(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;’;

(b) for clause (ii), the following clause shall be substituted, namely:—

‘(ii) “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;’.

2.9 The Ministry in their explanatory note to the amendment stated as follows:-

“New definition of “adolescent” (between age group of 14 to 18) has been included to prohibit the employment of adolescent in scheduled occupations and regulate the condition of their working in other occupations. The Child as defined in the Act remains the same. However, it is proposed to align the Child Labour (Prohibition & Regulation) Act with the Right to Free and Compulsory Education Act, 2009 by linking the age of the prohibition for employment with the age under Right to Free and Compulsory Education Act, 2009, whichever is more. Thus, in future, if the age of the Child as defined under RTE increases, the age of entry to employment would automatically increase.”

2.10 Since various labour laws differ in regard to the prescribed age of child and adolescent, the Ministry was asked about the rationale for continuing with such difference and their views on aligning all the labour Acts so that there is no confusion regarding the age of the child for the implementing agencies, the Ministry replied as follows:-

“The proposal to link the age of child with age defined in Right to Education Act is in conformity with ILO Convention 138. The logic

behind this would be that if the child is prohibited from working till 18 years and the State is unable to provide him education till 18 years, what would the child be doing from 15 years of age to 18 years of age? If we have to prohibit children below 18 years from working in any occupation, the age of compulsory education has to be increased from 14 years to 18 years which will require an amendment in Right to Education Act, 2009. Keeping this in view the Ministry has proposed for linking the age of entry to employment with the age of compulsory free education under Right to Education Act, 2009. Thus, in future, if age of compulsory free education under Right to Education Act, 2009 increases, the age of entry to employment would automatically increase.”

2.11 The issue of persons in the age group of 14 years to 18 years has also been addressed in the proposed amendment. The proposed Amendment Bill proposes to prohibit employment of “adolescents” (14 years to 18 years) in hazardous occupations.

2.12 Article 24 of the Constitution provides that no child below the age of 14 years shall be employed in work in any factory or mine or engaged in any other hazardous employment. The framers of the Indian Constitution have carefully selected 14 years of age while making these provisions. The age of 14 years has perhaps been kept keeping in mind the socio-economic conditions of the country. Provisions are there for prohibiting the employment of children below 14 years in the Factories Act, 1948, Merchant Shipping Act, 1958, Motor Transport Act, 1961, Beedi and Cigar Workers Act, 1966, Minimum Wages Act, 1948, Plantation Act, 1951, etc. Even ILO Convention 138 permits that the minimum age for employment to be 14 years under certain defined circumstances. Keeping in view of the above facts and the socio economic condition of our country, even under Right of Children to Free and Compulsory Education Act, 2009, a child has been defined as male or female child of the age of six to fourteen years. Further, with free education under RTE upto 14 years, if the age for employment of child is increased under Child Labour Act, then on one hand the child from a poor family may not be in a position to pursue his or her education further due to financial constraint and on the other hand cannot work due to ban under Child Labour Act. This may create serious social/law and order problem.

2.13 The Secretary, Ministry of Women and Child Development during evidence held on 18th November, 2013 stated:

“The Ministry of Women and Child Development has a different age for the nomenclature of ‘child’. According to the National Plan of Action for Children 2005 and the National Charter of Children 2003, Ministry has adopted a new National Policy for Children, 2013 to bring it in tune with the UN Child Rights Commission and according to this new policy a child is defined as a person below 18 years of age. Again in the Juvenile Justice Act, the definition of juvenile of child is ‘a person who has not completed 18 years of age’.

In the Domestic Violence Act 2005, again we have the age as 18 years. The Prohibition of Child Marriage Act 2006 specifies the minimum age for marriage of girls as 18 years and for boys as 21 years. In the Immoral Traffic (Prevention) Act, the age is given as 16 years and in Protection of Children from Sexual Offences Act 2012, the age is given as 18 years... In the Protection of Children from Sexual Offences Act 2012, it is 18 years. So, our first issue which we wish to flag before the hon. Committee is that we have different age for definition of child in the WCD.”

2.14 The Secretary, Department of School Education and Literacy with this regard deposed before the Committee on 18th November, 2013 as under:

“The Department of School Education and Literacy in the Ministry of HRD has supported the proposals for amendment in the Act given by the Ministry of Labour. In the RTE Act, the definition of child is in context of the Right to Education and the duty on the Government for that education. Therefore, the definition itself has been made contextual than the preliminary portions stating that the child is defined as 6 to 14 years of age. When the child is defined as 6 to 14 years of age and that is the Right of child to get the education, there is also a provision which states that a child even though he or she may have crossed 14 years of age, but has not done eight years of this statutory elementary schooling, that child shall be admitted to an appropriate school with provisions for special training for that child to do that part. This is the overall context of it. Within that context, we have supported all the provisions out here, especially the provision to prohibit employment of all children in all occupations and processes... The ideal situation would

have been that in the proposed draft which is there in the Bill at Clause 3 at the portion where adolescent is there to put in 'would have completed class 8'. That would have been legally and absolutely perfect."

2.15 In the above context, the Secretary, Ministry of Labour and Employment stated during the evidence held on 18th November, 2013 as under:

"We have gone through a consultative process wherein 14 was agreed upon. That is why, we have provided 14 in this. For hazardous, article 3 is there where it says that the minimum age should not be 18 but there are exceptions where it can be even 16. We are not taking that option because hazardous we do believe should be restricted to 18. There was another question on the definition of hazardous. What will be treated as hazardous? They were never written. I would like to mention that the Act provides in section 5 about the Child Labour Technical Advisory Committee. We understand that new services are evolving; new types of employment are evolving. These have to be dynamic. It will not be possible to put it in the Act. What we have here is that the Central Government may, by notification in the official Gazette constitute an advisory committee to be called as Child Labour Technical Advisory Committee to advise the Central Government for the purpose of addition of occupations and processes to the schedule. And the Schedule is where they are talking of hazardous processes. So, the hazardous processes would be a sort of dynamic definition."

(IV) Substitution of new Section for Section 3.

Prohibition of employment of children in any occupation and process

2.16 For Section 3 of the principal Act, the following section shall be substituted, namely:—

"3. No child shall be employed or permitted to work in any occupation or process:

Provided that nothing in this section shall apply where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home."

2.17 The Ministry in their explanatory note to the amendment stated as follows:-

“The objective of the amendment is to primarily prohibit commercial exploitation of children as Child Labour. There would be no bar on children helping their families after school hours and in vacations, in fields, home-based work (other than for commercial purposes), forest gathering and also learning skills in schools and technical institutions.”

2.18 When asked how a situation where the parents claim that the child is learning the family’s traditional trade and not helping them in their work in the technical sense of term their views could be explained and decided on the suggestion that there is no need for any provision allowing children to help their parents since children would anyhow work with their parents given the social fabric of the country, the Ministry replied as under:-

“In the Amendment Bill it has been proposed that there would be no bar on children helping their families after school hours and in vacations, in fields, home-based work (other than for commercial purposes), forest gathering and also learning skills in schools and technical institutions. The view of the Ministry is that as long as there is no “subordinate relationship of labour or work which are out sourced and carried out in home”, this exception may be allowed...It cannot be denied that a large percentage of India’s population is working in agriculture sector and most of the children in agriculture are working with their families on family farms. Issue of prohibiting the children from working on their farms would, therefore, be a complex and delicate issue. Further there are many artisan families where traditional family skills are passed on from older generation to their progeny in their early age, and this helps them in their overall development and earning livelihood later in their lives. These traditional skills need to be preserved and children can grow up learning them as long as it is not detrimental to their physical and mental health and does not interfere with their schooling...the structure and intrinsic values in a Indian family is different from many other countries. We believe in sharing of work and responsibility within the family. Therefore as long as there is no “subordinate relationship of labour or work which is out sourced and carried out in home”, this exception should be allowed without hurting the family values of many Indians.”

(V) Insertion of new section 3A.

Prohibition of employment of adolescents in certain hazardous occupations and processes.

2.19 After Section 3 of the principal Act, the following Section shall be inserted, namely:—

“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.”.

2.20 The Ministry in their explanatory note to the amendment stated as follows:-

“This is a new provision included to prohibit employment of adolescents in the age group of 14 to 18 years in hazardous occupations and processes and accordingly, the schedule under the Act has been reclassified.”

2.21 On being asked about the suggestion that the hazardous processes as proposed in the amendment bill should be in addition to the occupations given in the schedule in the Child Labour (Prohibition & Regulation) Act, 1986, the Ministry replied as under:

“Under Section 5 of the existing Act, there is a provision for addition of any new occupations or processes in the Schedule of prohibitory list of occupations and processes with the approval of Technical Advisory Committee. The provisions of the present Amendment Bill regarding schedule of hazardous occupations and processes have been framed, wherein the employment of children/adolescents upto the age of 18 years has been prohibited with a view to harmonize them with the Factories Act.”

(VI) Amendment of section 4.

2.22 In section 4 of the Principal Act, for the words “add any occupation or process to the Schedule”, the words “add to, or, omit from, the Schedule any hazardous occupation or process” shall be substituted.

2.23 The Ministry in their explanatory note to the amendment stated as follows:-

“In section 4 in the Principal Act there is a provision for addition to the schedule any occupation or process with the consultation of Technical Advisory committee. However provision for omission of any occupation or process from the schedule in the Act does not exists. This provision is now being added in the Section 4 of the Act. For omission of any occupation or process from the schedule of the Act, amendment in the Act has to be initiated, which is a lengthy process.”

(VII) Omission of Part III.

2.24 Part III of the principal Act shall be omitted. The Ministry in their explanatory note to the amendment stated as follows:-

“Part III of the Principal Act is regarding regulation of conditions of work of children.”

2.25 On being asked about the reasons for omission of Part III of the Act and the prescribed authority in cases of disputes as to the age and applicability of the same part for regulating the conditions of the work of the adolescents, the Ministry replied as under:

“Part III of the present Act covers the Regulations of conditions of work of children. Since in the present amendment proposal, employment of children upto 14 years has been completely prohibited and also engagement of children upto the age of 18 years i.e. adolescents in Hazardous occupations and processes has also been banned, so part III of the Act which relates to regulation of conditions of work of children has been deleted. However, provision exists in Section 18 of the existing Act for making rules by the Appropriate Government by official Gazette Notifications and the rules would be framed once the Amendment Bill is approved.”

(VIII) Amendment of section 14.

2.26 In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years’ or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

2.27 The Ministry in their explanatory note to the amendment stated as follows:-

“As per the Principal Act employment of a child in hazardous occupation was punishable with imprisonment for a term not less than three months or extend to one year or with fine which shall not be less than ten thousand rupees extended upto twenty thousand rupees or both. The provision for fine in the amendment proposal has been increased to imprisonment for a term not less than six months or extend to two year or with fine which shall not be less than twenty thousand rupees extended upto fifty thousand rupees or both.’

2.28 (IA) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.”;

2.29 The Ministry in their explanatory note to the amendment stated as follows:-

“The provision for punishment of offenders for employment of Adolescent in hazardous occupation has also been proposed similar to the provision proposed for Child Labour.

Parent or guardians of such children were not to be punished unless they permit engagement of their child for commercial purposes in contravention of provisions of Section 3.”

2.30 (b) in sub-section (2),—

(i) for the word and figure “section 3”, the words, figures and letter, “section3 and section 3A” shall be substituted;

(ii) for the words “six months but which may extend to two years”, the words “one year but which may extend to three years” shall be substituted;

2.31 The Ministry in their explanatory note to the amendment stated as follows:-

“For repeated offenders the amendment proposal has increased the punishment to imprisonment for a term of one year but which may extend to three years.”

2.32 (c) clauses (a), (b) and (c) of sub-section (3) shall be omitted. The Ministry in their explanatory note to the amendment stated as follows:-

“Clause 9(a) (b) & (c) are the regulatory clauses covered under Part III of the Principal Act, which has been proposed to be omitted in the amendment bill.”

2.33 When asked about the views on the proposal that parents should not be punished if they permit their children to work, the Ministry replied:

“Poverty and child labour are inter-related. The proposal to amend the Child Labour (Prohibition and Regulation) Act, 1986 was drafted keeping in view the socio-economic conditions of the country and it is evident that poverty is one of the prominent and perennial causes of the

continuous problem of child labour. While framing the provision of the existing Act, it was kept in mind that a substantial proportion of the population is below poverty line or just above poverty line. One of the major problem the enforcement agencies are facing while implementing the Child Labour (Prohibition and Regulation) Act, 1986 is due to the provision in para 2 of Section 3 of the existing Act. As per para 1 of section 3 of the Child Labour (Prohibition & Regulation) Act, employment of Children upto the age of 14 is prohibited in the occupations and processes set forth in Part A and part B of the Schedule. However, para 2 of Section 3 of the Act says that:

“nothing in this Section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from Government”

Due to the above provision, many of the children employed by their parents, guardians/pseudo guardians in the work outsourced from home were not coming within the purview of the Child Labour (Prohibition and Regulation) Act, 1986. Now, when, in the Amendment Bill complete ban has been proposed for employment of children up to the age of 14, any relaxation to the perpetrator/offender of the Act would again amount to dilution of the provisions in the proposed Amendment Bill. The issue was also discussed in the Central Monitoring Committee meeting held on 11th January, 2012 wherein most of the members from the State Governments and NGOs were of the view that the parents and guardians of the child labour needs to be punished. The Ministry of WCD was also of the view that the parents/guardians of the children need to be punished as in most of the cases, the perpetrators are either parents or near relatives. In most of the cases it is the parents/guardians, who due to poverty put/force their child for labour. As such in the Amendment Bill the provision for punishment to the offending parents/ guardians has been suggested as a deterrent against sending their wards to work for commercial gain.”

2.34 Asked further the basis of the above reply and the options the parents have, the Ministry stated:

“Poverty is one of the major reasons for children being put to work from an early age, but it is not the only one. Lack of social protection, lack of universal elementary schooling facilities, lack of basic community

health services, lack of awareness and advocacy are some of the other contributory reasons compelling the push of children into work by the parents.

In recent years, there have been a number of initiatives from the Government to address these issues. The National Rural Employment Guarantee Act (NREGA) 2005 was enacted to reinforce the commitment towards livelihood security in rural areas. The significance of NREGA lies in the fact that it creates a right-based framework for wage employment programmes and makes the Government legally accountable for providing employment to those who ask for it. National Rural Health Mission (NRHM) seeks to provide accessible, affordable and quality universal health care, which would include all aspects of a clearly defined set of healthcare entitlements including preventive, primary and secondary health services. The RTE Act provides for the right of children to free and compulsory education till completion of elementary education in a neighbourhood school. The Food Security Bill seeks to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity. Social security is also provided through a large number of initiatives such as the Rashtriya Swasthya Bima Yojana (RSBY), Aam Aadmi Bima Yojana (AABY), Janani Suraksha Yojana (JSY), Indira Gandhi National Old Age Pension Scheme (IGNOAPS) etc.

All these initiatives are designed to reduce the 'compulsion' of the parents to put their children to work. However this needs to be backed by legislation also. The Child Labour (Prohibition & Regulation) Act provides the necessary legislative framework for this.

With regard to the culpability of the parents and guardians of child labour, the Government is of the opinion that it cannot be ignored as they are the main beneficiaries of the income generated by the children and unless they are made culpable, they can collaborate with the employers and defeat the whole purpose of the amendments, especially in the context of the RTE Act."

(IX) Insertion of new section 14A.

Offences to be cognizable.

2.35 After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.”

2.36 The Ministry in their explanatory note to the amendment stated as follows:-

“The Act has been given more teeth. For better implementation of the Act as well for eradication of the menace of child labour it is proposed that the offence under this Act has been proposed to be made cognizable.”

2.37 On being asked about any dedicated agency where the common man can report incidence of child labour, the Ministry replied as under:-

“In the Amendment Bill, the offence under the Child Labour (Prohibition & Regulation) Act, 1986 has been made cognizable and as such an FIR/complaint can be lodged in any Police Station against incidence of child labour.”

(X) Insertion of new sections 17A and 17B.

District Magistrate to implement the provisions.

2.38 After section 17, the following sections shall be inserted, namely:—

“17A. The appropriate Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so

conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

2.39 When asked about the Committee's concern over the proposal to confer powers and impose duties on District Magistrate to implement the provisions of the Act as the office of the DM is already over burdened, the Ministry stated:

“District Magistrate is the administrative head of a district and performs many functions in pursuance of executive instructions of the Government. By introducing this provision, the Government is making the role statutory, which actually enhances the accountability of the District Magistrate. It would also supplement the enforcement machinery as the District Magistrate can specify any of his subordinate officers to exercise all or any of the powers and perform all or any of the duties, conferred on him by the appropriate Government...The proposed Amendment Bill in no way diluted the responsibility of the Labour Department from enforcement of the provisions of the Child Labour Act. The labour enforcement authorities will continue to carry out the enforcement and inspection as being done earlier. However, as the labour enforcement officials are inadequate in number to implement the Act properly in its true spirit so to fill up this gap, in the proposed Amendment Bill it has been proposed that the appropriate Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed. This proposal to confer powers on District Magistrate is in addition to enforcement of this law by the Labour Department officials and would thus strengthen the enforcement machinery.”

2.40 On the issue of inability of District Magistrate to implement the scheme properly, the Secretary, Ministry of Labour and Employment during the evidence stated:

“You have asked about the District Magistrate. Under NCLP project, there are societies which are headed by the District Magistrate. So, the District Magistrate traditionally has already been the person responsible for child labour. I think, child labour is one of the red tag or whatever we

call it. I think the child labour is something that should be exceptionally applied to the District Magistrate...When we are reviewing this NCLP we will indeed look at what sort of Committees which will represent ...”

2.41. The Secretary, Department of School Education and Literacy, Ministry of Human Resource Development during the evidence stated:

“...the Chair had incidentally referred to the vigilance and monitoring committees. We have exactly the same vigilance and monitoring committees chaired by the senior-most MP in the district, on the lines of the R&D Ministry.”

Inspection and monitoring

2.42 17B. The appropriate Government shall, make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.”.

2.43 The Ministry in their explanatory note to the amendment stated as follows:-

“The Principal Act had provisions for appointment of Inspectors for the purposes of securing compliance of the Act and any Inspector so appointed was deemed to be a public servant within the meaning of IPC, 1860. Presently, labour departments were involved in the enforcement of the Child Labour Act. Since the labour inspectors have a limited jurisdiction for effective implementation of the Act, involvement of District administrative machinery is important. The same has been covered under the present amendment proposal.”

(XI) Amendment of section 18

2.44 In section 18 of the principal Act, in sub-section (2), for clauses (b), (c) and (d), the following clause shall be substituted, namely:—

“(b) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A.”

2.45. The Ministry in their explanatory note to the amendment stated as follows:-

Section (2) (b), (c) & (d) of section 18 of the Act is about the regulation of working condition for employment of children.

a) Since in the amendment proposes complete ban on the employment of children upto 14 years of age so no regulation for the children would be required and Part III the Principal act has accordingly been deleted in amendment proposal.

b) Since the responsibility for implementation of the Act has now been conferred to the District Magistrate so the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out would be as per section 17 A of the proposed amendment.”

2.46 In the Principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

THE SCHEDULE

(See section 3A)

- (1) Mines.
- (2) Inflammable substances or explosives.
- (3) Hazardous process.

Explanation.—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’.

2.47 The Ministry in their explanatory note to the amendment stated as follows:-

“The existing schedule under section 3 of the Act contains 18 occupations under Part A and 65 processes under Part B, where children

are prohibited to work. However in the amendment proposed employment of Children have been banned completely and employment of adolescents has been prohibited in hazardous occupations & processes. Accordingly, a reclassified schedule has been drawn up, where adolescents would be prohibited to work.”

CHAPTER-III

Rescue & Rehabilitation of Child Labour

3.1 When asked why commercial purposes should not be defined to include beggary, hiring the child for beggary, using the child as beggars even by parents, trafficking etc, the Ministry replied as follows:

“Offence of child trafficking is not specifically mentioned here because sec 370 of the recently amended IPC deals with it explicitly and there is no need to replicate the provisions in this Act.

'A child beggar is a child in need of care and protection. Employment of a child below 18 years of age for begging is made punishable under the Section 24 of the Juvenile Justice (Care and Protection) Act, 2000 and protection to the said child has been made available under the same Act. Hence no separate provision has been made for anti-begging in the Amendment Bill"

3.2 On being asked the views of the Ministry on the suggestion that the word 'regulation' should be replaced by 'rehabilitation', the Ministry stated as under:

“Ministry of Women and Child Development under the Government of India (Allocation of Business) Rules, 1961 has been given the responsibility for enforcement of The Juvenile Justice (Care and Protection of Children) Act, 2000. The Act consolidates and amends the law relating to juveniles in conflict with law, and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment. It has a separate chapter on rehabilitation and social reintegration (Chapter IV). Hence duplication of those provisions in the Amendment Bill is not required.”

3.3 When asked why the Ministry has not dealt with the issue of child trafficking in this Bill, the Ministry replied:

“As per the Government of India Allocation of Business Rules, the subject matter relating to trafficking falls within the domain of Ministry of Women and Child Development and the matter relating to criminal offences against women and children is being looked after by Ministry of Home Affairs. To this effect, a Convention on United Nations Convention against Transnational Organized Crime (UNTOC) has been ratified by Government of India in March, 2011. Further, to tackle the menace of Human Trafficking, Ministry of Home Affairs has set up Anti Trafficking Nodal Cell which has interface with other Ministries and National Crime Record Bureau in collation and dissemination of information.”

3.4 Asked about street and orphaned children, the Ministry of Labour and Employment replied that they are covered under Ministry of WCD. It is the view of the Government that the children who beg on their own on the streets, therefore, they are not child labour but it is known that they are made to beg. Asked as to why the Ministries keep passing the buck, the Ministry stated:

“As submitted in an earlier reply, the business of the Government of India is transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule of the Government of India (Allocation of Business) Rules, 1961. The distribution of subjects among the departments is specified in the Second Schedule to these rules. Each Ministry is accordingly discharging the mandate given to it.”

3.5 On being asked the steps the Ministry are taking for rehabilitation of rescued children ‘statutorily’, the Ministry replied is as under:-

“With the passage of Right to Free and Compulsory Education Act, 2009 (RTE) the rehabilitation of child into the fold of education has been made mandatory and is being implemented by the Ministry of Human Resource Development. This Act provides for free education upto the age of 14 years, free books and mid-day meals.”

3.6 When asked that the siblings of the rescued street children/orphaned children should also be rehabilitated alongwith the rescued children, the Ministry replied that:

“The Ministry of Labour & Employment is implementing the National Child Labour Project wherein children in the age group of 9 to 14 years, withdrawn from hazardous occupations and processes, are mainstreamed to formal schools. The rehabilitation of the siblings of the street and orphaned children is being looked after by Ministry of Women and Child Development through their Integrated Child Protection Scheme (ICPS).”

3.7 As regards non ratification of ILO Conventions 138 & 182, the Ministry stated:

“Government of India follows the policy of ratifying the ILO Convention only when the existing laws and practices are in full conformity with the provisions of the said convention. ILO Convention No.138 inter-alia prescribes that there should be a minimum age of entry to employment which should not be less than age of compulsory education or 15 years (relaxable to 14 years). It also requires that all children below 18 years should be prohibited in hazardous occupations. ILO Convention 182 inter-alia, mentions the minimum age for working in hazardous occupations as 18 years. Since both these provisions were not incorporated in our Child Labour (Prohibition and Regulation) Act earlier, we could not ratify these Conventions. However, with the proposed Amendments, we would be in a position to ratify these Conventions.”

3.8 On the issue of effective provisions for rehabilitation of rescued child labour, the Ministry stated as follows:

“The Ministry of Labour & Employment is implementing National Child Labour Project Scheme for the rehabilitation of children withdrawn from hazardous occupation and processes. Under the Scheme children are provided with bridge education, mid day meal, vocational training, stipend and health check - ups and after completion of bridge education children are mainstreamed into the formal education system.

The Scheme is being revised to work out better convergence with Ministry of HRD, WCD, Home and Rural Development for a more effective rehabilitation of child labour. The revision includes alignment of NCLP Scheme with the Right to Education Act, 2009.”

3.9 When asked about the involvement of so many Ministries in the process of rescue and rehabilitation of child labour, the Ministry replied that:

“The business of the Government of India is transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule of the Government of India (Allocation of Business) Rules, 1961. The distribution of subjects among the departments is specified in the Second Schedule to these rules. Each Ministry is accordingly discharging the mandate given to it.”

3.10 The Secretary, Ministry of Labour and Employment during the evidence stated that:

“According to business rules, this subject is dealt with by them. We do not have a scheme for night shelters. We look at them in the context of labour. Our mandate is related to labour. It is not the question of passing the buck. That is why we are working very closely with the Ministry of HRD. We would perhaps in this Committee that we have, we will have them also so that there is complementarity... I think all the three Ministries need to work together. In the Committee that we have, we will induct the Ministry of WCD also. It is important that we work in conjunction with each other. So, I take your point.”

CHAPTER-IV

OBSERVATIONS/RECOMMENDATIONS

4.1 The Committee note that the short title of the Act is proposed to be amended as ‘The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986’ in view of the insertion of the proposed new definition of ‘adolescent’ but the Committee find that no provision has been made for the regulation of conditions of work of adolescents in the amended Act. The Committee note from the reply of the Ministry that the rules would be framed in this regard once the Amendment Bill is approved. According to the Statement of Objects and Reasons appended to the Amendment Bill, one of the objectives of the Bill is to ‘... prohibit employment of adolescents in hazardous occupations and processes and to regulate the conditions of services of adolescents...’, therefore, the Committee are of the opinion that regulation of the conditions of work of the adolescents including the criteria for their wages and settlement of disputes with regard to age of the child be made part of the Principal Act to reflect the intention of the Act and to minimize their exploitation. Even the Factories Act with which the Ministry has attempted to harmonise some of the provisions of the Act has a chapter dedicated to the ‘employment of the young persons’ in the principal Act. The Committee, therefore, recommend that the regulation of the working conditions of adolescents may be made part of the principal Act. The

Committee note from the reply of the Ministry that prohibition of employment of children in a subordinate relationship of work and labour includes those working in the Audio Visual entertainment industry. The Committee are also of the view that a lot of children/adolescents are working in Audio-Visual entertainment industry now-a-days and there have been cases where the children have not been able to bear the physical and mental trauma associated with rigorous routine. The Committee desire that appropriate rules may also be made for prohibition/regulation for children/adolescents working in Audio-Visual entertainment industry.

4.2 The Committee note that it is proposed to amend the definition of 'child' to provide that 'child' means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009(RTE Act, 2009), whichever is more, and that a definition clause is proposed to be inserted which provides that 'adolescent' means a person who has completed his fourteenth year of age but has not completed his eighteenth year. The Committee observe that as per Section 3(1) of the RTE Act, 2009, every child of the age of 6-14 years shall have a right to free and compulsory education till the completion of elementary education and as per proviso to Section 4, a child admitted to elementary education shall be entitled to

free education till completion of the elementary education even after fourteen years. The Committee also note from the submission made by the Secretary, Department of School Education and Literacy during the evidence that the ideal situation would have been to add 'would have completed class 8' in the definition of adolescent. Paragraph 3 of Article 2 of ILO Convention 138 'Minimum Age Convention, 1973' also states that the minimum age for admission to employment or work shall not be less than the age of completion of compulsory schooling. The Committee are of the view that while aligning with the RTE Act, the Ministry has missed the spirit of the RTE Act. The focus of RTE act is to provide elementary education to all which should have been the criteria for determining a 'adolescent' in the present Bill too. The Committee are of the opinion that all children below 14 years should be in school and those who are above 14 and have missed school due to any reason should at least complete elementary education before being allowed to be employed in any occupation.

The Committee were concerned to note that various Acts have prescribed different age to define a 'child'. The Committee note from the reply of Ministry of Labour & Employment that rehabilitation and social integration of children has been provided under The Juvenile Justice (Care and Protection of Children) Act, 2000 which is in the domain of

Ministry of Women and Child Development. During evidence the Secretary, Ministry of Women and Child Development put forth the issue of having different age for definition of child in the Acts and policies being implemented by the Ministry of Women and Child Development, most notably, new National Policy for Children, 2013 where the age is given as 18 years. The Committee recommend that the proposed definitions be reviewed in view of the submission made by the Secretary, Department of School Education and Literacy and Secretary, Ministry of Women and Child Development by involving them in the consultation process.

4.3 The Committee note that it is proposed to substitute Section 3 of the principal Act to provide that no child shall be employed in any occupation but he/she can help his/her family after school hours or help in fields, home-based work, forest gathering or attend technical institutions during vacations. A child, however, cannot help where there is subordinate relationship of labour or works which are outsourced and carried out in home. The Committee are not able to understand as to how the Ministry proposes to keep a check on children working in their homes. The Ministry is itself providing loopholes by inserting this proviso since it would be very difficult to make out whether children are merely helping their parents or are working to supplement the family income.

Further, allowing children to work after school is detrimental to their health as rest and recreation is important for fullest physical and mental development in the formative years besides adversely affecting their studies. The Committee feel that the schools where these children study should conduct sessions for their parents and tell them about the needs of the children. The Committee are of the view that there is no need to insert a provision to expressly allow some obvious things, in the Indian context, such as children helping their parents in domestic chores. The Committee recommend that this proviso may be deleted and the amended section be reframed to prohibit employment in all occupations where there is subordinate relationship of work and labour.

4.4 The Committee note that Section 3A is proposed to be inserted to prohibit employment of adolescents in any hazardous occupations and processes specified in the proposed schedule. In the schedule, it has been provided that 'hazardous processes' has the same meaning as assigned to it in the Factories Act. The hazardous processes given in Factories Act include those processes which may impair the health of the persons engaged or which may pollute the general environment. According to paragraph 1 of Article 3 of ILO Convention 138 i.e.' Minimum Age Convention, 1973' 'The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it

is carried out is likely to jeopardise the health, safety or morals of young person shall not be less than 18 years' The Committee feel that the Ministry have not made any efforts to identify hazardous occupations and have haphazardly copied from the Factories Act. The Committee observe that adolescents might be employed in industries which are apparently non-hazardous or works that are carried out at homes and thus not covered under the above schedule. For example, working as domestic helps does not fall under the category of hazardous occupations but in the case of adolescents it could turn out to be both hazardous and traumatic due to the treatment meted out to them by their employers. The exploitation and cruelty, in some cases, of the employers can affect health, safety and morals of the adolescents albeit working in a non-hazardous occupation. The Ministry has altogether ignored the provision of the ILO Convention 138 that such occupations should also include those which can jeopardize the safety and morals of young persons. The Committee, therefore, recommend that the meaning of hazardous processes be reviewed and widened to include all those processes that may jeopardize health, safety and morals of the adolescents.

4.5 The Committee note that it is proposed to amend section 14(1) to enhance punishment for employment or permitting any children to work in any occupations or processes and that parents and guardians of such

children shall not be liable for punishment unless they permit such children for commercial purposes. The Committee are of the view that reasons for entry of children into employment include poverty, neglect, social and economic exploitation, trafficking, lack of schools and loss/incapacity of parents. All of these reasons indicate that children are forced to work due to various reasons with or without the consent of parents. The Committee are apprehensive of the scenario where parents are undergoing imprisonment for their act of permission and poor children are left alone to fend for themselves or poor parents resorting to unfair means to arrange rupees twenty thousand to be paid as fine. The Committee are of the view that in such cases the law should instead of punishing poor parents take a lenient view so that children do not have to work to fulfill their basic needs. The Supreme Court in its judgment in the case of M.C. Mehta had observed that providing an alternative source of income to the family is a pre requisite for the eradication of child labour and that employment should be provided to an adult in the family in lieu of a child working in a factory or mine or any other hazardous work. The Committee note from the reply of Ministry of Labour and Employment that a number of initiatives have been undertaken/schemes introduced by the Government to reduce the compulsion of the parents to put their children to work. The Committee are of the view that benefits of these initiatives/schemes have not percolated adequately. The Committee, therefore, recommend that the proviso be amended and

lenient view may be taken in case of poor parents and those parents who have not been able to take benefits of any of the schemes. Repeated offenders may, however, be punished for allowing their children to work. The Committee are also of the opinion that the fine may be collected from the errant employers in all cases to be used for the rehabilitation of the rescued children in a fund christened as 'The Child Welfare Fund'.

4.6 The Committee also note that further in cases where adolescents are employed in hazardous occupations, the punishment is proposed to be enhanced and the parents and guardians shall also be punished if they permit such adolescents to work in such occupations. The Committee feel that although the parents might have given permission to let their children to work in such occupations it is not necessary that the poor uneducated parents are in the know that these are hazardous occupations where adolescents are not supposed to work. The Committee are of the view that making employers liable is sufficient and there is a need for raising awareness about the hazardous occupations and their effects on adolescents. This can be done by providing elementary education to such parents out of 'The Child Welfare Fund'. The Committee are of the opinion that the employers who exploit the adolescents and do not treat them properly should also be covered under the punishment clause.

4.7 The Committee note that a new section is proposed to be inserted to confer powers and impose duties on the District Magistrate to ensure that the provisions of the Act are properly carried out. The Committee find that District Magistrate is already overseeing the implementation of National Child Labour Project (NCLP) and this machinery has not yielded much which is evident from the Ministry's own submission. The Committee feel that District Magistrate is already overburdened and hence he may not be able to spare adequate time to deal with the issues relating to child labour. The Committee feel that since Ministry of Labour and Employment does not have any effective mechanism to supervise the implementation of the provisions of the Act, the proposal to confer power and duties on the District Magistrate might not yield the desired results. The Committee find that the Bill is also silent in this regard. The Committee, therefore, recommend that Vigilance and Monitoring Committees headed by local MP's may be constituted to review the implementation of not only The Child Labour (Prohibition & Regulation) Act but also, all the Labour Acts in the area every three months.

4.8 The Committee note that Section 17B is proposed to be inserted to empower the appropriate Government to make periodic inspection of the places at which the employment of children is prohibited and the hazardous occupation or processes are carried out. The Committee are of

the view that since the employment of children is prohibited at all places as per the Amendment Bill, the instant provision should cover any place where employment of children is suspected and in case of adolescents, the appropriate Government may be empowered to make periodic inspection of the places at which the employment of adolescents is prohibited and the hazardous occupation or processes are carried out. The Committee feel that the Act should also provide for rehabilitation of children and adolescents rescued after such inspection or on any complaint filed under Section 16 of the Act.

4.9 The Committee note that trafficking of children from remote areas is done to put them in menial jobs which may include working as domestic helps, begging, prostitution and drug peddling. The Committee note from the reply of the Ministry of Labour & Employment that matters relating to trafficking and also the street children fall under the jurisdiction of Ministry and Women and Child Development and the matters relating to criminal offences against children are looked after by Ministry of Home Affairs. The Committee deplore the causal manner in which Ministry of Labour & Employment has replied on a sensitive issue. The Committee observe that the number of child beggars at the traffic signals, number of children selling small things like flowers, number of rag pickers and the number of children working as domestic helps has not

decreased whichever Ministry is looking after the issues involved. Since these children are working, they are definitely child labour and need to be stopped and put in schools immediately. The Committee, therefore, recommend that all the Ministries involved bring about a comprehensive strategy to fight this menace and save the poor children from exploitation.

4.10 The Committee find that there is no provision for rescue and rehabilitation of children in the present Amendment Bill. The Committee note from the reply of the Ministry of Labour and Employment that rehabilitation of child into the fold of education is being implemented by the Ministry of Human Resource Development. The Ministry has also stated that since the National Child Labour Project hitherto an instrument for rehabilitation is not aligned with the RTE Act so it is being revamped. The Committee, however, feel that the Act itself should be comprehensive to cover all the aspects viz. identifying child labour or adolescents in hazardous occupations, rescuing them, rehabilitating and retaining them in schools till the completion of elementary education. The Committee are not sure whether the amendments would yield desired results since various Ministries are involved looking after different aspects and coordination between different departments is negligible or absent and passing the buck by each is a major excuse. The Committee

recommend that instead of having a fragmented approach on the issue, the Government should bring a New Child Labour Policy and the machinery to implement laws, policies and projects should be specified therein.

**New Delhi;
11th December, 2013
20 Agrahayana, 1935 (Saka)**

**DARA SINGH CHAUHAN,
CHAIRMAN,
STANDING COMMITTEE ON LABOUR**

ANNEXURE-I

AS INTRODUCED IN THE RAJYA SABHA

Bill No. LXII of 2012THE CHILD LABOUR (PROHIBITION AND REGULATION)
AMENDMENT BILL, 2012

A

BILL

further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”.

Amendment of long title.

3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986”, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986” shall be substituted.

Amendment of short title.

4. In section 2 of the principal Act,—

(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as

so renumbered, the following shall be inserted, namely:—

‘(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;’;

(b) for clause (ii), the following clause shall be substituted, namely:—

‘(ii) “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;’.

Amendment of section 2.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. No child shall be employed or permitted to work in any occupation or process:

Provided that nothing in this section shall apply where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home.”.

Substitution of new section for section 3. Prohibition of employment of children in any occupation and process

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.”.

Insertion of new section 3A.

Prohibition of employment of adolescents in certain hazardous occupations and processes.

7. In section 4 of the principal Act, for the words “add any occupation or process to the Schedule”, the words “add to, or, omit from, the Schedule any hazardous occupation or process” shall be substituted.

Amendment of section 4.

8. Part III of the principal Act shall be omitted.

Omission of Part III.

9. In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years’ or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(IA) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.”;

(b) in sub-section (2),—

(i) for the word and figure “section 3”, the words, figures and letter, “section 3 or section 3A” shall be substituted;

(ii) for the words “six months but which may extend to two years”, the words “one year but which may extend to three years” shall be substituted;

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

Amendment of section 14.

10. After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.”.

Insertion of new section 14A.

Offences to be cognizable.

11. After section 17, the following sections shall be inserted, namely:—

“17A. The appropriate Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

Insertion of new sections 17A and 17B.

District Magistrate to implement the provisions.

17B. The appropriate Government shall, make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.”.

Inspection and monitoring

12. In section 18 of the principal Act, in sub-section (2), for clauses (b), (c) and (d), the following clause shall be substituted, namely:—

“(b) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A.”.

Amendment of section 18

13. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

‘THE SCHEDULE

(See section 3A)

(1) Mines.

- (2) Inflammable substances or explosives.
- (3) Hazardous process.

Explanation.—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’.

Substitution of new Schedule for the Schedule STATEMENT OF OBJECTS AND REASONS

The Child Labour (Prohibition and Regulation) Act, 1986 provides for prohibition of the engagement of children in certain employments and for regulating the conditions of work of children in certain other employments.

2. Section 3 of the said Act, *inter alia*, provides that employment of children below the age of fourteen years is prohibited in any of the occupations or processes specified in the Schedule to the said Act. Section 6 of the said Act provides that the provisions of Part III of the Act (which relates with the regulation of conditions of work of children) shall apply to an establishment or a class of establishments in which none of the occupations referred to in section 3 is carried on.

3. It is proposed to prohibit employment of children in all occupations and processes to facilitate their enrolment in schools in view of the Right of Children to Free and Compulsory Education Act, 2009 and to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes and to regulate the conditions of service of adolescents in line with the ILO Convention 138 and Convention 182, respectively.

4. The provisions of the Bill, *inter alia*, provide for—

(i) the amendment of the long title of the said Act in view of the proposed provision to prohibit employment of children below fourteen years in all occupations and processes and the proposed provision to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes set forth in the proposed Schedule;

(ii) the amendment of the short title of the said Act in view of the insertion of the proposed new definition of “adolescent” whose employment in hazardous occupations and processes is also proposed to be prohibited;

(iii) the insertion of a new definition of “adolescent” that means a person who has completed his fourteenth year of age but not completed his eighteenth year in section 2 of the said Act;

(iv) the amendment of the definition of “child” to provide that child means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;

(v) the amendment of section 3 of the said Act to prohibit employment of children in all occupations and processes except where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home;

(vi) the insertion of a new section 3A to prohibit employment of adolescents in any hazardous occupations and processes specified in the proposed Schedule;

(vii) the amendment of section 4 of the said Act to empower the Central Government to add or omit any hazardous occupations and processes from the Schedule to the proposed legislation;

(viii) the omission of Part III of the said Act in view of the prohibition of employment of children below fourteen years of age in all occupations and processes;

(ix) the amendment of sub-section (1) of section 14 to enhance the punishment from imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which

shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, to imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both, for employment or permitting any children to work in any occupations or processes in contravention of section 3. However, the parents or guardians of such children shall not be liable for such punishment unless they permit such children for commercial purposes;

(x) the insertion of new sub-section (1A) in section 14 to provide punishment of imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both for employment or permitting to work any adolescent in any hazardous occupations or processes. However, the parents or guardians of such adolescents shall not be liable for punishment unless they permit such adolescents to work in contravention of the provisions of section 3A;

(xi) the amendment of sub-section (2) of section 14, which provides punishment for the convicted offender who commits a like offence afterwards, to enhance the minimum punishment existing therein from six months to one year and maximum punishment from two years to three years;

(xii) the insertion of a new section 14A to provide that the offences under the proposed legislation shall be cognizable notwithstanding anything contained in the Code of Criminal Procedure, 1973;

(xiii) the omission of the provisions of clauses (a) and (b) of sub-section (3) of section 14 of the Act in view of the prohibition of the employment of children below fourteen years in all occupations and processes;

(xiv) the insertion of new section 17A to empower the appropriate Government to confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the

provisions of the proposed legislation are properly carried out and to empower the District Magistrate to specify the officer subordinate to him who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer in accordance with the rules made by the appropriate Government;

(xv) the insertion of new section 17B which empowers the appropriate Government to make periodic inspection or cause such inspection to be made, of the places at which the employment of the children is prohibited and the hazardous occupation or process are carried out, at such intervals as it thinks fit and monitor the issues relating to the provisions of the Act; and

(xvi) the substitution of the existing Schedule to the Act by new Schedule in view of the prohibition of children in all occupations and processes and regulation of employment of adolescents in hazardous occupations and processes.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 21st November, 2012.

MALLIKARJUN KHARGE

*ANNEXURE*EXTRACTS FROM THE CHILD LABOUR (PROHIBITION AND
REGULATION) ACT, 1986

(61 OF 1986)

* * * * *

An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

* * * * *

PART I
PRELIMINARY

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

2. In this Act, unless the context otherwise requires,—

* * * * *

(ii) “child” means a person who has not completed his fourteenth year of age;

* * * * *

PART II
PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN
OCCUPATIONS AND PROCESSES

3. No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on:

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

4. The Central Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

*

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*

*

PART III REGULATION OF CONDITIONS OF WORK OF CHILDREN

6. The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

7. (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

8. Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment

and the day so specified shall not be altered by the occupier more than once in three months.

9. (1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:—

- (a) the name and situation of the establishment;
- (b) the name of the person in actual management of the establishment;
- (c) the address to which communications relating to the establishment should be sent; and
- (d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

Explanation.— For the purposes of sub-sections (1) and (2), “date of commencement of this Act, in relation to an establishment” means the date of bringing into force of this Act in relation to such establishment.

(3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

10. If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child

granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

11. There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing—

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

12. Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

13. (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:—

- (a) cleanliness in the place of work and its freedom from nuisance;
- (b) disposal of wastes and effluents;
- (c) ventilation and temperature;
- (d) dust and fume;
- (e) artificial humidification;
- (f) lighting;
- (g) drinking water;
- (h) latrine and urinals;
- (i) spittoons;

- (j) fencing of machinery;
- (k) work at or near machinery in motion;
- (l) employment of children on dangerous machines;
- (m) instructions, training and supervision in relation to employment of children
on dangerous machines;
- (n) device for cutting off power;
- (o) self-acting machines;
- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings in floors, etc.;
- (s) excessive weights;
- (t) protection of eyes;
- (u) explosive or inflammable dust, gas, etc.;
- (v) precautions in case of fire;
- (w) maintenance of buildings; and
- (x) safety of buildings and machinery.

PART IV
MISCELLANEOUS

14. (1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever—

(a) fails to give notice as required by section 9; or

(b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or

(c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or

* * * * *

Penalties.

shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

* * * * *

18. (1) * * * * *

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

* * * * *

(b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;

(c) grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned;

(d) the other particulars which a register maintained under section 11 should contain.

* * * * *

THE SCHEDULE
(See section 3)
PART A
Occupations

Any occupation connected with—

- (1) Transport of passengers, goods or mails by railway;
- (2) Cinder picking, clearing of an ash pit or building operation in the railway premises;
- (3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
- (4) Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
- (5) A port authority within the limits of any port;
- (6) Work relating to selling of crackers and fireworks in shops with temporary licences;
- (7) Abattoirs/slaughter Houses;
- (8) Automobile workshop and garages;
- (9) Foundries;
- (10) Handling of toxic or inflammable substances or explosives;
- (11) Handloom and powerloom industry;
- (12) Mines (underground and underwater) and collieries;
- (13) Plastic units and fibreglass workshops;
- (14) Employment of children as domestic workers or servants;
- (15) Employment of children in dhabas (road side eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centres;
- (16) Diving.

PART B
Processes

- (1) Bidi-making.
- (2) Carpet-weaving including preparatory and incidental process thereof.
- (3) Cement manufacture, including bagging of cement.
- (4) Cloth printing, dyeing and weaving including processes, preparatory and incidental thereto.
- (5) Manufacture of matches, explosives and fire-works.
- (6) Mica-cutting and splitting.
- (7) Shellac manufacture.
- (8) Soap manufacture.
- (9) Tanning.
- (10) Wool-cleaning.
- (11) Building and construction industry including processing and polishing of granite stones.
- (12) Manufacture of slate pencils (including packing).
- (13) Manufacture of products from agate.
- (14) Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.
- (15) 'Hazardous process' as defined in section 2 (cb) and 'dangerous operation' as notified in rules under section 87 of the Factories Act, 1948 (63 of 1948).
- (16) Printing as defined in section 2(k) (iv) of the Factories Act, 1948 (63 of 1948).
- (17) Cashew and cashewnut descaling and processing.
- (18) Soldering processes in electronics industries.
- (19) 'Aggarbatti' manufacturing.
- (20) Automobile repairs and maintenance including processes incidental thereto,
namely, welding, lathe work, dent beating and painting.
- (21) Brick kilns and roof tiles units.
- (22) Cotton ginning and processing and production of hosiery goods.
- (23) Detergent manufacturing.
- (24) Fabrication workshops (ferrous and non-ferrous).
- (25) Gem cutting and polishing.
- (26) Handling of chromite and manganese ores.
- (27) Jute textile manufacture and coir making.
- (28) Lime kilns and manufacture of lime.

- (29) Lock making.
- (30) Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scrapping of lead paint, burning of lead in enamelling workshops, lead mining, plumbing, cable making, wire patenting, lead casting, type founding in printing shops. Store type setting, assembling of cars, shot making and lead glass blowing.
- (31) Manufacture of cement pipes, cement products and other related work.
- (32) Manufacturing of glass, glassware including bangles, fluorescent tubes, bulbs and other similar glass products.
- (33) Manufacture of dyes and dye stuff.
- (34) Manufacturing or handling of pesticides and insecticides.
- (35) Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry.
- (36) Manufacturing of burning coal and coal briquettes.
- (37) Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather.
- (38) Moulding and processing of fibreglass and plastic.
- (39) Oil expelling and refinery.
- (40) Paper making.
- (41) Potteries and ceramic industry.
- (42) Polishing, moulding, cutting, welding and manufacture of brass goods in all forms.
- (43) Process in agriculture where tractors, threshing and harvesting machines are used and chaff cutting.
- (44) Saw mill—all processes.
- (45) Sericulture processing.
- (46) Skinning, dyeing and processes for manufacturing of leather and leather products.
- (47) Stone breaking and stone crushing.
- (48) Tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form.

- (49) Tyre making, repairing, re-treading and graphite beneficiation.
- (50) Utensils making, polishing and metal buffing.
- (51) 'Zari' making (all processes).
- (52) Electroplating.
- (53) Graphite powdering and incidental processing.
- (54) Grinding of glazing of metals.
- (55) Diamond cutting and polishing.
- (56) Extraction of slate from mines.
- (57) Rag picking and scavenging.
- (58) Processes involving exposure to excessive heat (*e.g.* working near furnace) and cold.
- (59) Mechanised fishing.
- (60) Food processing.
- (61) Beverage industry.
- (62) Timber handling and loading.
- (63) Mechanical Lumbering.
- (64) Warehousing.
- (65) Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, agate industry.

RAJYA SABHA

A

BILL

further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

(Shri Mallikarjun Kharge, Minister of Labour and Employment.)

GMGIPMRND—3567RS(S3)—27-11-2012.

ANNEXURE-II**Minutes of the Sitting of the Committee**

The Committee sat on 7th February, 2013 from 1500 hrs. to 1634 hrs. in Committee Room `C', Parliament House Annexe, New Delhi.

PRESENT**Shri Dara Singh Chauhan – CHAIRMAN****MEMBERS****Lok Sabha**

2. Dr. Virendra Kumar
3. Shri Narahari Mahato
4. Shri Hari Manjhi
5. Shri Mahendra Kumar Roy
6. Shri Rajiv Ranjan Singh (Lalan)
7. Shri K. Sugumar
8. Shri Bibhu Prasad Tarai

Rajya Sabha

9. Smt. T. Ratna Bai
10. Shri Mohd. Ali Khan
11. Shri Ranbir Singh Parjapati
12. Smt. Renubala Pradhan
13. Shri G.N. Ratanpuri
14. Shri Jai Prakash Narayan Singh

SECRETARIAT

- | | | | |
|----|-----------------------|---|------------------|
| 1. | Shri A.K. Singh | - | Joint Secretary |
| 2. | Shri P.V.L.N. Murthy | - | Director |
| 3. | Smt. Bharti S. Tuteja | - | Deputy Secretary |

Witnesses

Representatives of Ministry of Labour and Employment

Sl. No.	Name of the Officer	Designation
1.	Dr. Mrutyunjay Sarangi	Secretary
2.	Shri Anil Swarup	Additional Secretary
3.	Shri A.C. Pandey	Joint Secretary (CL)
4.	Shri P.K. Padhi	PLEA

2. At the outset, the Chairman welcomed the Secretary and other officials of the Ministry of Labour and Employment and invited their attention to the provisions contained in Direction 55 (1) of the Directions by the Speaker.

3. The Secretary, Ministry of Labour and Employment briefed the Committee on the amendments proposed in 'The Child Labour (Prohibition and Regulation) Amendment Bill, 2012' through a power point presentation.

4. The Members, thereafter, raised several issues and also sought clarifications on the following matters:-

- (i) Steps taken by the Ministry to rehabilitate and for education of rescued, orphaned, abducted and lost children;
- (ii) Strengthening of penalty provisions in case of violation of the Act;
- (iii) Provision for Inspection Committee to oversee the implementation and fix responsibility under the Act;
- (iv) Reasons for long delay in bringing amendments in the Act to align with ILO Convention 138 (1973) and ILO Convention 182 (1999);
- (v) Rationale of aligning provision regarding age of a child with the provision of 'The Right of Children to Free and Compulsory Education Act' or Right to Education Act (RTE) and not the Juvenile Justice (Care and Protection of Children) Act, 2000;
- (vi) Likely misuse and exploitation of children due to the provision allowing children to work after school hours and during vacations in 'home based' work;
- (vii) Need for distinction between male and female child in assessing 'hazardous occupation' under the Act;
- (viii) Number of prosecutions launched and convictions under the Act till date including action against Agencies supplying domestic help or for other work areas;

- (ix) Making District Magistrate responsible for implementation of the Act (without any accountability);
- (x) Categorization of children above 14 years as 'adolescents'; and
- (xi) Difference in figures of various agencies in regard to the number of children engaged in child labour.

5. The Chairman directed the Secretary to send written replies to the unanswered queries of the members to the Secretariat. The Secretary assured to furnish the requisite information as desired.

6. The Chairman then thanked the Secretary and other officials for giving valuable information to the Committee and responding to the queries of the Members.

(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

Minutes of the Sitting of the Committee

The Committee sat on 29th May, 2013 from 1500 hrs. to 1720 hrs. in Committee Room `E', Parliament House Annexe, New Delhi.

PRESENT

Shri Dara Singh Chauhan – CHAIRMAN

MEMBERS

Lok Sabha

2. Shri Ismail Hussain
3. Dr. Virendra Kumar
4. Shri Narahari Mahato
5. Shri Bal Kumar Patel
6. Shri Mahendra Kumar Roy
7. Shri Rajiv Ranjan Singh (Lalan)
8. Shri K. Sugumar
9. Shri Ashok Argal
10. Smt. J. Shantha
11. Shri Om Prakash Yadav

Rajya Sabha

12. Smt. T. Ratna Bai
13. Shri Thaawar Chand Gehlot
14. Shri Mohd. Ali Khan
15. Smt. Renubala Pradhan
16. Shri Rajaram
17. Shri G.N. Ratanpuri
18. Shri Jai Prakash Narayan Singh

SECRETARIAT

- | | | | |
|----|-----------------------|---|---------------------|
| 1. | Shri A.K. Singh | - | Joint Secretary |
| 2. | Shri Ashok Sajwan | - | Additional Director |
| 3. | Smt. Bharti S. Tuteja | - | Deputy Secretary |

2.	XX	XX	XX
3.	XX	XX	XX
4.	XX	XX	XX
5.	XX	XX	XX
6.	XX	XX	XX
7.	XX	XX	XX
8.	XX	XX	XX
9.	XX	XX	XX

Part-II

Sl. No.	Name of the Officer	Organisation
1.	Shri Kailash Satyarthi	Global March, Bachpan Bachao Andolan
2.	Shri Bhuwan Ribhu	-do-
3.	Shri Saifur Rahman, AGM	Child Rights and You (CRY)
4.	Shri Pankan Mehta, AGM	-do-
5.	Ms. Bharti Ali, Co-Director	HAQ, Centre for Child Rights

10. At the outset, the Chairman welcomed the representatives of NGOs to the sitting of the Committee convened to hear their views on 'The Child Labour (Prohibition and Regulation) Amendment Bill,

2012' and invited their attention to the provisions contained in Direction 55 (1) of the Directions by the Speaker. The Chairman, thereafter, sought their views on the various provisions of 'The Child Labour (Prohibition and Regulation) Amendment Bill, 2012' in the first instance.

11. The representatives of the NGOs deposing before the Committee expressed their views and gave their suggestions on various provisions of the Bill. Some of the major views expressed by them related to the following provisions:-

- (i) Difficulties faced due to the present laws in rehabilitation of children after their release.
- (ii) Definition of child labour and definition of hazardous occupation
- (iii) Child worker upto 14 years of age has been defined as illegal but there is no provision for rescue and rehabilitation.
- (iv) Penalty provision which is being proposed to Rs.50,000 is not appropriate and should be Rupees one lakh with imprisonment of 3-7 years.
- (v) Due to lacunae in laws only 10 percent cases have been prosecuted and out of that not even one percent convicted.
- (vi) Special courts for trial of such cases to speed up process.

- (vii) Mental and physical pressure on child artists in entertainment industry.
- (viii) Rising cases of domestic helps which is leading to human trafficking.

12. The queries raised by members pertaining to the Bill were also responded to by the representatives of NGOs.

13. The Chairman then thanked the representatives of NGOs for giving valuable suggestions on the Bill.

The witnesses then withdrew.

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

-----XX Matter do not pertain to this report.

Minutes of the Sitting of the Committee

The Committee sat on 18th November, 2013 from 1100 hrs. to 1300 hrs. in Room No.G-074, Parliament Library Building, New Delhi.

PRESENT

Dr. Manda Jagannath – In the Chair

MEMBERS LOK SABHA

2. Shri Narahari Mahato
3. Shri Hari Manjhi
4. Shri Mahendra Kumar Roy
5. Smt. J. Shantha
6. Shri Rajiv Ranjan Singh (Lalan)
7. Shri K. Sugumar
8. Shri Bibhu Prasad Tarai

Rajya Sabha

9. Shri Mohd. Ali Khan
10. Shri Ranbir Singh Parjapati
11. Smt. Renubala Pradhan
12. Shri G.N. Ratanpuri
13. Shri Jai Prakash Narayan Singh

SECRETARIAT

- | | | |
|--------------------------|---|------------------|
| 1. Shri A.K Singh | - | Joint Secretary |
| 2. Smt. Bharti S. Tuteja | - | Deputy Secretary |

REPRESENTATIVES OF THE MINISTRY OF LABOUR AND EMPLOYMENT

SL. NO.	NAME OF THE OFFICER	ORGANISATION
1.	Smt. Gauri Kumar	Secretary
2.	Shri Anil Kumar Khachi	Joint Secretary (CL)
3.	Shri A.C. Pandey	Joint Secretary
4.	Shri Chanan Ram	Director

REPRESENTATIVES OF THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(DEPARTMENT OF SCHOOL EDUCATION AND LITERACY)

SL. NO.	NAME OF THE OFFICER	ORGANISATION
1.	Shri R. Bhattarcharya	Secretary
2.	Shri Nagesh Singh	Economic Advisor
3.	Shri Kalyan Hazra	Consultant

REPRESENTATIVES OF THE MINISTRY OF WOMEN AND CHILD DEVELOPMENT

SL. NO.	NAME OF THE OFFICER	ORGANISATION
1.	Ms. Nita Chowdhury	Secretary
2.	Dr. Vivek Joshi	Joint Secretary

in 'The Child Labour (Prohibition and Regulation) Amendment Bill, 2012'.

6. The Members, thereafter, raised several issues and also sought clarifications on the following:-

- (i) Coordination between concerned Ministries and Departments while formulating the proposed amendments.
- (ii) Rehabilitation of poor parents who depend on the child for income.
- (iii) Ambiguity in the definition of a 'child' and 'adolescent'.
- (iv) Defining 'hazardous occupation' in the context of child labour.
- (v) Problems and achievements of Integrated Child Development Services (ICDS) Scheme and revamping of the Scheme.
- (vi) Review of National Child Labour Project.
- (vii) Constitution of Vigilance and Monitoring Committees.
- (viii) Measures to reduce dropout rate of children.
- (ix) Definition of 'commercial purposes'.
- (x) Welfare of street children and orphans.

7. The acting Chairman then directed the representatives of the Ministry of Labour & Employment to send written replies to the Supplementary List of Points and unanswered queries of the Members to the Secretariat within ten days.

8. The acting Chairman then thanked the Secretaries and other officials of Ministries of Labour & Employment, Human Resource Development and Women and Child Development for giving valuable information to the Committee and responding to the queries of the Members.

(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

XX Matter do not pertain to this report.

Minutes of the Sitting of the Committee

The Committee sat on 11th December, 2013 from 1500 hrs. to 1630 hrs. in Committee Room `C', Parliament House Annexe, New Delhi.

PRESENT

Shri Dara Singh Chauhan - Chairman

MEMBERS

LOK SABHA

2. Shri Ashok Argal
3. Dr. Virendra Kumar
4. Shri Hari Manjhi
5. Shri Mahendra Kumar Roy
6. Smt. J. Shantha
7. Shri Rajiv Ranjan Singh (Lalan)

Rajya Sabha

8. Shri D. Bandoyapadhyay
9. Shri Thaawar Chand Gehlot
10. Shri Mohd. Ali Khan
11. Shri G.N. Ratanpuri

SECRETARIAT

- | | | |
|--------------------------|---|------------------|
| 1. Shri A.K Singh | - | Joint Secretary |
| 2. Shri P.V.L.N. Murthy | - | Director |
| 3. Smt. Bharti S. Tuteja | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the members and apprised them about the Draft Report on 'The Child Labour (Prohibition and Regulation) Amendment Bill, 2012' to be considered and adopted.

3. The Committee considered and adopted the Draft Report without any modification.

4. The Committee then authorized the Chairman to present the report to both Houses of Parliament.

5. XX XX XX

6. XX XX XX

7. XX XX XX

8. XX XX XX

The Committee then adjourned.

XX Matter do not pertain to this report.