

CHILD PROTECTION BULLETIN

STATE CHILD
PROTECTION
SOCIETY, ASSAM

MONTHLY BULLETIN OF ACTIVITIES CONCERNING CHILD PROTECTION IN ASSAM

EDITORIAL

The amendments to the Child Labour (Prohibition and Regulation) Act, 1986, passed by Parliament recently, demonstrate a lack of national commitment to abolishing all forms of child labour. Parliament has allowed children up to the age of 14 to be employed in 'family enterprises', and created a new category of 'adolescents' (the 14-18 age group) who can be employed in 'non-hazardous' occupations.

In the name of acknowledging the socio-economic realities of India, the amendments tweak the law in such a way that children are in some form or other available for employment. The only concession to their educational rights is that they are permitted to work in family enterprises only outside school hours and during vacations.

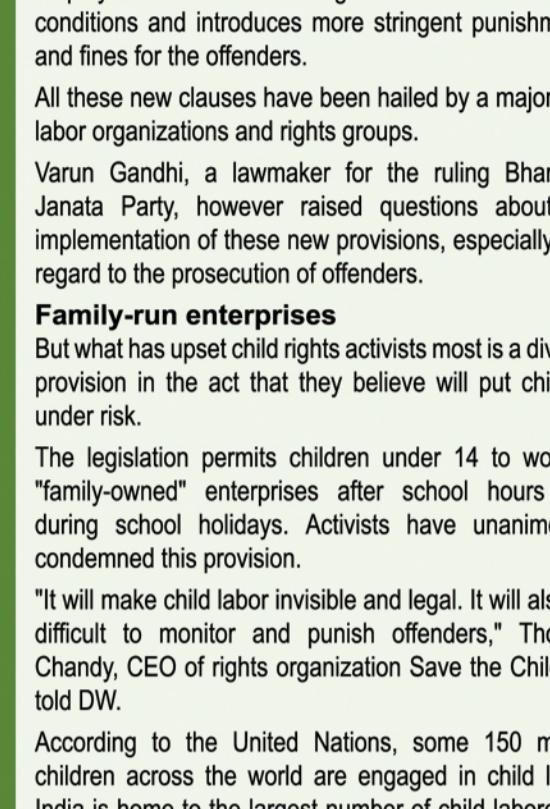
Regulation is going to be a big challenge, as it will be difficult to determine whether a particular family is running an enterprise, or whether some faceless owner has employed a single family to circumvent the law.

This month's bulletin carries articles on the recent Amendments to the Child Labour (Prohibition and Regulation) Act, 2016. The readers will gain insight into to the new amended act which will help them grasp the nitty-gritty of the Act.

Editorial Board,
State Child Protection Society, Assam

India's child labour act criticized by rights groups

The contentious act was recently passed in the parliament after intense debate and got the assent of the President Pranab Mukherjee.



The revised act makes employment of children below 14 years a criminal offense. It also prohibits the employment of adolescents aged 14 to 18 in hazardous conditions and introduces more stringent punishments and fines for the offenders.

All these new clauses have been hailed by a majority of labor organizations and rights groups.

Varun Gandhi, a lawmaker for the ruling Bharatiya Janata Party, however raised questions about the implementation of these new provisions, especially with regard to the prosecution of offenders.

Family-run enterprises

But what has upset child rights activists most is a divisive provision in the act that they believe will put children under risk.

The legislation permits children under 14 to work in "family-owned" enterprises after school hours and during school holidays. Activists have unanimously condemned this provision.

"It will make child labor invisible and legal. It will also be difficult to monitor and punish offenders," Thomas Chandy, CEO of rights organization Save the Children, told DW.

According to the United Nations, some 150 million children across the world are engaged in child labor. India is home to the largest number of child laborers in the world. Many of these children work in family-run businesses.

Last year, the International Labor Organization estimated that at least 5.8 million Indian children —aged between five and 17 — were employed as wage laborers in various sectors of the Indian economy, while another six million work in family businesses without pay.

Is it making child labor legal?

The United Nations Children's Fund (UNICEF) also voiced concerns over the amended act, saying it would legitimize child labor under some conditions.

Many in India believe the new law will not eliminate child labor violations, because a number of family firms are engaged in hazardous activities, and the pressure on children to work may supersede their need for education. Furthermore, the definition of "family-owned businesses" is unclear in the law, as it goes beyond just the nuclear family of parents and grandparents to include enterprises run by a child's aunts and uncles.

"It is a pity that India is literally allowing children to be employed in family enterprises," Enakshi Ganguly Thukral, co-founder of the HAQ Centre for Child Rights, told DW.

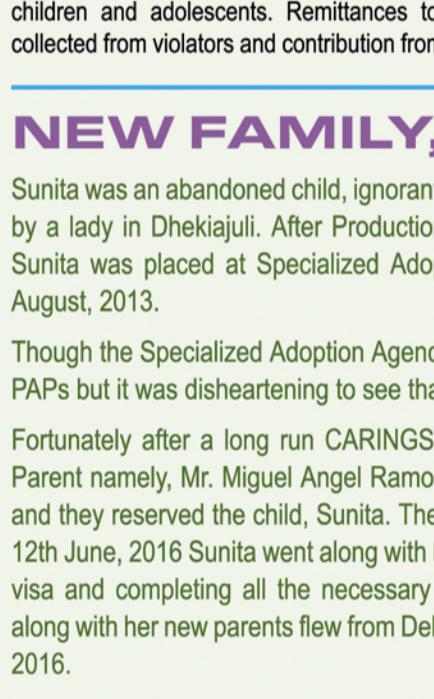
"The employment of children in occupations like tanning, bangle-making, carpet weaving, domestic work and numerous other professions like these that were previously recognized as hazardous for children will now be legal," added Thukral.

India's Nobel laureate and child rights activist Kailash Satyarthi said he was disappointed by the amended act, calling it a "missed opportunity."

"The definition of family and family enterprises is flawed. This law uses Indian family values to justify economic exploitation of children. It is misleading the society by blurring the lines between learning in a family and working in a family enterprise," he said in a statement ■



The Ministry of Labour and Employment has expressed serious concern over comments of some organisations on some provisions of the Child Labour (Prohibition and Regulation) Amendment Act, 2016, passed by the Parliament on 26th July, 2016. It said such comments were ill-informed and misleading reflecting inadequate understanding of the provisions and implications of the original, The Child Labour (Prohibition and Regulation) Act, 1986 and of the Amendment Act, 2016.



The Ministry asserted that the Amendment Act clearly seeks to protect the Right to Education of children of below 14 years of age by remedying the defective provisions of the original Act, contrary to the comments that it adversely impacts the schooling and learning of poor children. In addition, the Amendment Act, 2016 provides for the first time protection to adolescents of 14 – 18 years of age.

The following is the Statement of the Ministry of Labour and Employment in the matter:

"The comments by some organisations as reported in some sections of the media on some provisions of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 passed by the Parliament this week were far from the truth and were based on inadequate understanding of the provisions and implications of the original Act of 1986 and the Amendment Act, 2016.

Those comments have created an impression that the Amendment Act, 2016 allows for the first time employment of children of below 14 years of age in family enterprises while no such provision was there in the original Act of 1986, thereby adversely impacting their schooling and learning. The fact of the matter is that Section (3) of the original Act of 1986 while prohibiting employment of children in certain occupations only provides clearly that "nothing in this section shall apply to any workshop where in any process is carried on by the occupier (owner) with the aid of his family or to any school established by, or receiving assistance or recognition from, Government". This goes to prove that the original Act of 1986 clearly allowed children to be employed or engaged in all kinds of family enterprises without any restrictions.

There is no provision at all in the original Act prohibiting children from being employed or engaged in family enterprises including hazardous occupations and even during school hours. On the contrary, while stipulating that Children of 14 years of age should not be employed between 7 p.m and 8 a.m (Section 7), the original Act of 1986 exempted family enterprises and schools from the applicability of this provision. This exemption, read in conjunction with the provisions of the original Act of 1986 granting blanket permission for engaging children in family enterprises without any references to school hours, has the potential for children to be allowed to work in family enterprises round the clock, severely impacting their schooling, learning and health.

The Amendment Act, 2016 on the contrary clearly stipulates total and complete prohibition on employment of children below 14 years. However, taking into consideration the socio-economic conditions prevailing in the country and the prevailing practice in many parts of the world where the children help in their family enterprise, the Amendment Act provides that children can help their families only in non-hazardous occupations and that too only after school hours or during vacations, thereby restricting engagement of children in family enterprises. This clearly ensures their schooling as per the provisions of the Right to Education Act, 2009. Due care

- Comments of some Organisations on Child Labour Amendment Act ill founded, Assets Labour Ministry
- Children allowed to work in family enterprises in original act, its scope severely restricted now
- Amendment act seeks to ensure the Right of Children to Schooling and Learning unlike in the original act
- Adolescents of 14 – 18 years age too now get protection, not in the original act
- Amendment act more restrictive in employing children and more stringent in punishments for violations

has been taken to ensure that this help is not at the cost of the education of the child. While the original Act prohibited children from being employed only in certain occupations, the Amendment Act prohibits their employment in all kinds of occupations. Going beyond protecting the interests of children of 14 years of age including ensuring their right to education, the Amendment Act, 2016 offers protection for the first time to adolescents in the age group of 14 – 18 years by prohibiting their employment in hazardous occupations and permitting their engagement in only certain occupations to be specified in due course.

The Amendment Act, 2016 provides for very stringent provisions for the enforcement as against the original Act. Any violation of the rights of children is made a cognizable offence under which a person accused of violation could be arrested without any arrest warrant while such a violation under the original Act was only a non-cognizable offence under which permission of a Magistrate is required to arrest an accused. District Collectors are made responsible to enforce the provisions of the amended law while it was left to only Inspectors under the original Act. Stringent penalties are proposed in the new law by doubling the period of imprisonment and fines for violations.

Regarding the list of hazardous occupations/processes, it is clarified that the list of 18 occupations and 65 processes mentioned in the original Act is not a list of hazardous practices but only a category of certain occupations/processes in which employment of children is prohibited. The Amendment

WHAT THE AMENDMENTS MEAN

CHILDREN UP TO 14 YEARS

- Amendment prohibits employment of children up to 14 years, except in entertainment and sporting activities or home enterprises, but only in non-school hours and without a subordinate relationship of work and labour.
- Current law prohibits employment of children up to 14 years in specified categories such as domestic work, automobile workshops, bidi-making, carpet weaving, handloom and power loom industry and mines and hazardous industries.

NEW TERM OF 'ADOLESCENTS'

- Amendment introduces term 'adolescent' for children between 14 and 18 years of age, bars their employment in hazardous industries.
- Current law allows employment of children above 14 years in hazardous occupations and processes.

PUNISHMENT FOR EMPLOYERS FOR VIOLATION

- Amendment calls for stricter punishment for employers violating law, with jail term of six months to two years and fine of Rs.20,000 to Rs.50,000 for the first offence. Jail of a year to three years for a second time offender.

- Current law penalise first time offender with jail of three months to one year and a fine between Rs.10,000 to Rs.20,000 and a subsequent offender to imprisonment of six months to two years.

per child and adolescent will be used for their welfare including education.

The provisions of the Amendment Act, 2016 are hence meant for protecting the interests including the right to education of the children below 14 years and of adolescents of 14-18 years age in a more focused, rigorous and stringent manner. Such comments based on inadequate understanding of the provisions and implications of the original Act of 1986 and the Amendment Act, 2016 could mislead the people and needs to be avoided".

Courtesy: Press Information Bureau, Government of India, Ministry of Labour & Employment

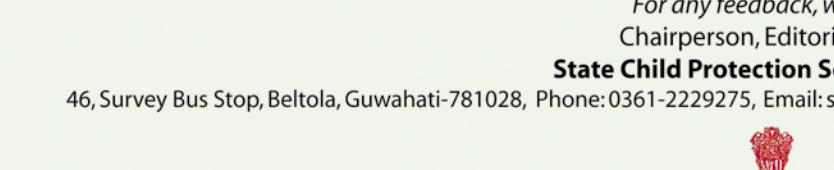
NEW FAMILY, NEW LIFE

Sunita was an abandoned child, ignorant about her biological parents. She was rescued by a lady in Dhekiajuli. After Production before the Child Welfare Committee (CWC) Sunita was placed at Specialized Adoption Agency, Morigaon Mahila Mehfil on 3rd August, 2013.

Though the Specialized Adoption Agency tried to match Sunita with different registered PAPs but it was disheartening to see that most of the PAPs rejected her.

Fortunately after a long run CARINGS matched Sunita with a Prospective Adoptive Parent namely, Mr. Miguel Angel Ramos Lancis and Mrs. Maria Del Rosario, in Spain and they reserved the child, Sunita. Then came a change in the life of Sunita when on 12th June, 2016 Sunita went along with her adoptive parents to Delhi. After getting their visa and completing all the necessary formalities with the Spanish embassy Sunita along with her new parents flew from Delhi to their native Zaragoza, Spain on 20th June, 2016.

Now Sunita is with her new family and as reported by the Adoptive Parents she is very happy with her new atmosphere and is enjoying a lot with her family. The excitement of being part of a new family with a caring mother and loving father is something she will never forget. We wish her a bright life & great future ahead.



Journey of Jyoti from SAA to USA

Jyoti is a child with special needs. After the sudden death of her biological parents she was surrendered by her aunty when she was only 3 years old. After treatment it was found that Jyoti was suffering from malnourishment, microcephaly, astigmatism and other physical ailments.

Due to her disability it was very difficult to find matching PAP for Jyoti. Finally she was matched with one PAP from USA & the family was also ready to accept Jyoti after knowing that she was a special need child. Jyoti was handed over to the parents on 9th of March 2016.

It was found after post adoption follow up that at present she is very happy and leading a wonderful & healthy life. She is also going through medical treatment & therapies and also attending kindergarten.

For any feedback, write to : Chairperson, Editorial Board, State Child Protection Society, Assam

46, Survey Bus Stop, Beltola, Guwahati-781028, Phone: 0361-2229275, Email: scpsassam@gmail.com, Website: assam-scps.com/termsfuse.php

DSW, Government of Assam

Lokonya Press, Guwahati-1

Sl. No. Districts Juvenile Justice Boards Child Welfare Committees

No. of cases instituted No. of cases disposed Total cases pending No. of cases instituted No. of cases disposed Total cases pending

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|--------------|---------------|-------------------------------------------|------------|-------------|------------|------------|------------|
| 1 | BAKSA | Cases are jointly dealt with Nalbari JJBB | | | 1 | 2 | 0 |
| 2 | BONGAIGAON | 7 | 8 | 18 | 5 | 5 | 9 |
| 3 | BARPETA | 5 | 6 | 105 | 7 | 9 | 28 |
| 4 | CACHAR | 3 | 14 | 52 | 4 | 7 | 3 |
| 5 | CHIRANG | 3 | 1 | 28 | 65 | 62 | 7 |
| 6 | DARRANG | 4 | 4 | 84 | 4 | 1 | 15 |
| 7 | DHEMAJI | 2 | 13 | 41 | 6 | 6 | 2 |
| 8 | DHUBRI | 2 | 0 | 103 | 4 | 1 | 12 |
| 9 | DIBRUGARH | 1 | 10 | 44 | 14 | 17 | 2 |
| 10 | DIMA HASAO | 0 | 0 | 21 | 0 | 0 | 0 |
| 11 | GOALPARA | 0 | 11 | 98 | 8 | 9 | 21 |
| 12 | GOLAGHAT | 8 | 4 | 18 | 2 | 6 | 11 |
| 13 | HAILAKANDI | 2 | 7 | 40 | 0 | 2 | 4 |
| 14 | JORHAT | 6 | 5 | 51 | 3 | 3 | 3 |
| 15 | KAMRUP (M) | 11 | 13 | 55 | 94 | 65 | 178 |
| 16 | KAMRUP (R) | 8 | 5 | 62 | 33 | 30 | 20 |
| 17 | KARBI ANGLONG | 3 | 0 | 50 | 3 | 2 | 5 |
| 18 | KARIMGANJ | 0 | 5 | 40 | 1 | 1 | 38 |
| 19 | KOKRAJHAR | 4 | 9 | 156 | 1 | 1 | 12 |
| 20 | LAKHIMPUR | 0 | 0 | 0 | 15 | 14 | 10 |
| 21 | MORIGAON | 2 | 0 | 13 | 10 | 5 | 11 |
| 22 | NAGAON | 6 | 16 | 230 | 14 | 14 | 32 |
| 23 | NALBARI | 6 | 3 | 26 | 3 | 1 | 41 |
| 24 | SONITPUR | 4 | 11 | 116 | 13 | 15 | 50 |
| 25 | SIBSAGAR | 2 | 11 | 37 | 25 | 5 | 42 |
| 26 | TINSUKIA | 0 | 7 | 34 | 8 | 9 | 47 |
| 27 | UDALGURI | 3 | 5 | 18 | 18 | 15 | 41 |
| Total | | 92 | 168 | 1540 | 361 | 307 | 644 |