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Review of the pace and progress of elimination of Child Labour in MP by Dr. Lakshmidhar Mishra, IAS (Retd.) Special Rapporteur, NHRC from 4.08.08 to 6.08.08 at Indore and Bhopal

Historical Background

Prior to independence, MP was known all over the country as a centre of textile industry. The primary reason for this is that the Malwa and Nimad regions are known for black cotton soil (an extension of the black cotton belt of Maharashtra stretched over a distance of 600 km.) which is suitable for cotton and cotton is the Principal raw material for textile industry. Ironically all major composite textile mills in MP have closed down due to a variety of reasons (antiquated plant and machinery, high cost of production, inability to grapple with the competitive environment) and their place has been taken over by spinning mills which manufacture yarn of various counts for handloom and power loom.

The pace and progress of industrialization of MP was closely related to its geography and topography as also to certain external imponderables in the wake of the LPG syndrome.

In 80s new enterprises such as engineering, automobiles, chemicals and fertilizers, oil and drugs came up and have somehow maintained their position till date. The State Government adopted a proactive stand towards industrialization by declaring Peethampur, Malaupur and Mandeedeeep as industrial areas and announcing a package of incentives to enterprises coming up in these areas.

Industrialisation in MP has been largely area specific as would be evident from the following:-

Malwa region]	Textiles
Nimad region]	
Madhya Bharat	
Bundelkhand	- agriculture and beedi/cigar;
Mahakaushal and Baghelkhand	- cement and related enterprises;
Jabalpur	- Ordnance and units ancillary to ordnance.

The labour problems of MP which are closely interlinked with its industrial map cannot, therefore, be looked at from a uniform angle.

It was reported by the officers in the Office of Labour Commissioner, Indore that Child Labour has been completely removed from the organized sector of industry and is to be found in the unorganized sector mostly. The unorganized sector accounts for 93 PC of the total work force. Because of its overwhelming spread and sweep in the wake of liberalisation, privatisation and globalization of the economy (due to which more and more workers are entering the unorganized/informal sectors), it has attracted a lot of attention including a lot of priority from the State Government. This is evident from the fact that (a) a State Level Commission was set up under Chairpersonship of Smt. Rehana Jhabala of Self Employed Workers' Association of Ahmedabad to suggest measures for ameliorating the condition of workers in the unorganized sector (b) framing rules under Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, levying cess on building and construction

industry, setting up of a building and construction workers' welfare and cess fund (which as on date has a corpus of Rs. 189 Crores), setting up a Board to administer the fund and announcing a series of welfare measures for the health, safety and welfare of the building and construction workers and their family members (c) setting up a Welfare Fund for workers in State Pencil enterprises since 1982 and announcing a series of measures for the health, safety and welfare of workers of the State pencil industry including scholarship for their children.

The issue of Child Labour, magnitude of the problem, areas and sectors in which Child Labour has been concentrated, measures taken to identify working children, releasing and rehabilitating them, role of National Child Labour and INDUS Child Labour Projects may be examined in this perspective.

Magnitude of the Problem

According to decennial census, 2001 the number of working children in MP is 1065259 or 10.65 lakhs which is less than the figure reported in the decennial census, 1991 (1352563) by 2,87,304.

This, no doubt, is a positive indication of the fact that the number of working children has come down by 2.87 lakhs ostensibly due to efforts made by the State Government and NGOs between 1991 and 2001.

Census, however, is only one of the indicators but not the only one and certainly not the conclusive one. Besides decennial census, NSSO does undertake the survey of child labour population

although there is a qualitative difference between the methodologies adopted by the 2 agencies (while the census enumeration takes place on one single day for the whole country NSSO surveys are spread over one year).

According to 'Employment and unemployment situation in India' (July 2004 – June 2005) Part I and Part II which is the report of NSS 61st round brought out by the Ministry of Statistics and Programme Implementation in September, 2006, participation of children in 5-9 and 10-14 age group in the work force for that year (2004-2005) is to be calculated for M.P. according to the following formula:-

State – Madhya Pradesh:

- I Rural (male) 5-9 age group - $.001 \times$ projected child population for that year.
- II Rural (female) 5-9 age group – 0.
- III Rural (male) 10-14- $0.42 \times$ Projected child population for that year.
- IV Rural (female) 10-14- $0.69 \times$ Projected child population for that year.
- V Urban (male) 5-9- 0
- VI Urban (female) 5-9 - 0

VII Urban (male) 10-14 - $.029 \times$ Projected child population for that year.

VIII Urban (female) 10-14 - $0.18 \times$ Projected child population for that year.

The projected population for different years is available in the office of Registrar General and Census Commissioner. Since the ratio presented in the NSS report (61st round) for rural (male) and rural (female) as also urban(male) and urban (female) is either nominal or zero we may safely ignore the 5-9 age group for the purpose of calculation and arriving at the Projected figure of child labour population for 10-14 age group.

On this premise the child labour population for M.P. in 10-14 age group would be $.042 \times$ projected child population + $.069 \times$ projected child population + $.029$ projected child population + $.018 \times$ projected child population or 3.27096 lakh + 5.37372 lakh + 2.25852 lakh + 1.40184 lakh or 12.30504 or 12.3 lakh or 1.23 million.

This, however, does not include the migrant child labour population about which no survey has been undertaken and, therefore, no precise estimates are available.

While this is the magnitude of the problem of child labour according to decennial census and NSSO the number of working children who were found in course of the survey which was undertaken in pursuance of the directions of the Supreme Court on 10.12.96 in CWA 465 of 1986 M.C. Mehta vs. State of Tamilnadu

and others is a miniscule of what was reported either by census or by NSSO:-

-	Children found in hazardous Occupations and process	- 8826
-	Children found in non-hazardous Occupations/processes	- 2994
	Total	: 11,820

Yet another and a third set of figures came out of the survey undertaken by Sarva Shikshya Abhiyan (SSA) authorities. According to this survey the status of out of school children has shown a decline as would be evident from the following:-

Out of School Children

Age Group	<u>2006-07 (in lakhs)</u>			<u>2007-2008 (in lakhs)</u>		
	Boys	Girls	Total	Boys	Girls	Total
5-14	1.49	1.48	2.97	0.92	0.89	1.81

This is undoubtedly a happy augury that (a) the number of out of school children has come down (b) more and more children have started attending school. It should, however, be noted out of school children and working children are not altogether co-terminus. While some out of school children may be working children all children who are out of school may not be at the work place. They may be discharging household chores or taking care of siblings or may be helping the parents in agricultural/non farm work. In either case, children who are out of school, whether at work for wages or at home represent a colossal waste of the most precious human resource. In terms of policy and programme of action, the correct

approach would be (a) all children in 6-14 age group must compulsorily attend school (b) conditions must be created in the school environment which will be conducive to universal enrolment, universal retention, participation and achievement of the minimum levels of learning in mother tongue, arithmetic, physical and earth sciences, social sciences and environment (c) all children in 6-14 should be withdrawn from work regardless of whether they are employed in the prohibited or non-prohibited categories, whether they work for wages or without wages (as work at home is not for wages), (d) all children at work should be replaced by adults (e) simultaneous steps must be taken for eradication of parental poverty and illiteracy (f) earnings of adult parents must be improved partly by creating conditions at workplace which are healthy, hygienic, safe and secure and which provide a motivation for higher production, productivity and, therefore, higher earnings and largely by enforcement of minimum wages (g) in a highly monetized economy wages must be paid substantially in cash to enable the parents to defray household expenses including expenses on account of school bag, school uniforms, school fees (wherever the same are not free) of children (h) conditions should be so created at the originating point by intensification of public works on a stable and durable basis and through enforcement of minimum wages as would minimize the incidence of migration (i) if despite all possible efforts adult parents decide to migrate, the State must take over the responsibility of total upkeep and maintenance of children at the originating point and thereby save the succeeding generation from being victims of educational deprivation and victims of occupational diseases due to living at an unhealthy and unhygienic environment at the destination point as also due to constant exposure to dust,

heat, smoke, toxic and gaseous substances. This will be possible if crèches or child recreation centres (CRC) are established where children can be nurtured to boyhood and youth, to the 'fullness of their physical and emotional being' as was observed by Justice Sri P.N. Bhagwati in Lakshmikant Pandey vs. Union of India on 6.2.84 and subsequent judgement on 15.10.85 (WP (CRL) No. 1171/1982).

This is a multipronged strategy to deal with the problem of child labour with a view to completely eliminating it and making it fully coterminus with access to free and compulsory education which is joyous, exciting, interesting and worthwhile. For this a number of sequential steps are needed which may be stated as under:-

1. A State level policy on elimination of Child Labour making the policy co-terminus with access to and retention of children in free and compulsory education must be in place.
2. A State level action plan or programme of action highlighting (a) the role of concerned departments such as health, education, labour, law, home, women and child development, rural development, urban development, science and technology, finance (including institutional finance) panchayatiraj etc. (b) spelling out a definite time frame by which all children in 6-14 age group will be withdrawn from work and provided full time schooling (c) undertaking preventive measures with a view to preventing fresh induction of children into the work force (d)

strengthening the administrative and law enforcement agencies and making/using inspection a tool of spotting children and withdrawing them from work (e) making adequate financial provision for complete rehabilitation of children withdrawn from work through education, nutrition, vocational skill training and regular check up of health etc. must also simultaneously be in place.

3. Setting up a high powered State Level Authority on elimination of child labour with Chief Minister as Chairperson and Ministers, Labour and Education as Vice Chairpersons and Secretaries of all the concerned Departments as mentioned prepage as members. This body should be responsible to give directions on all important policy matters relating to elimination of child labour and rehabilitation of children withdrawn from work through education, nutrition, vocational skill training and check up of health.
4. Simultaneously another State level Committee under Chairmanship of Chief Secretary to Government may be set up for monitoring, supervision and coordination of all the field level activities relating to elimination of child labour and rehabilitation of children withdrawn from work. The Secretaries and Heads of Departments of all concerned departments as mentioned pre-page should be made members of this Committee. This body should closely monitor the extent of compliance with the directions issued by the State Level Authority on elimination of child labour

on the one hand and maintain coordination with the various departments on the other.

Regretfully, none of these is in place in MP as would be evident from the following:-

- I. There is no state level policy document on elimination of Child Labour.
- II. The State Government set up a Committee under Chairmanship of Shri Sunder Singh Shakrawar as Chairman with representatives from AITUC, INTUC and BMS as members and Sri L.K. Pandey, Addl. Labour Commissioner as member Secretary in 2005-06. The said committee has submitted its report to the State Government. There is just one small paragraph at page 42 of the report on Child Labour which neither provides any policy thrust nor direction towards its elimination. The paragraph reads as under:-

' Child Labour as a problem is found in the unorganized sector. It does attract attention as a social problem but it becomes difficult to bring it within the framework of law on account of the fact that (a) they work at home along with their parents and (b) they sometimes work hand to hand and shoulder to shoulder with employers of small enterprises in construction and other activities for nominal wages. It is not clear when they start

work or when they end. The visibility of the problem is poor'.

Every policy framework should (a) clearly and precisely state the problem and (b) direction as to how to deal with the problem. If the policy document is vague and ambiguous, it does not send a clear signal to the functionaries on the ground as to what the policy intends to achieve.

- III So far no State Level Authority on elimination of Child Labour has been set up. In other words, there is no institutional mechanism at the top to provide leadership and direction to programmes related to elimination of Child Labour.
- IV Similarly, there is no State Level Committee to monitor, coordinate and supervise the programmes related to elimination of Child Labour on the ground and to provide a direction for correction of deficiencies.

Areas and sectors in which working children have been concentrated in MP

Since no fresh survey has been undertaken either for the State as a whole or in specific areas and sectors having concentration of child labour after May, 1997 (when the last survey was undertaken) and census data is fairly old, I thought it appropriate to meet and interact with as many cross sections of the civil society as possible such as NGOs, social activists and media persons to have some clue to the magnitude of the problem of child labour and to have a clear idea of the areas as well as sectors in

which child labour in MP is concentrated. MP has 50 districts as on date and the following picture about existence of child labour in areas and sectors emerged from the above interactions:

I Sectors – Hotels/Motels/Dhabas

Mostly interstate migrant children in large number from Bikaner, Jalore, Jaisalmer, Ganganagar, Sikar and Bhilwada are employed in the hotels/motels/dhabas or roadside restaurants which have come up in large number across the MP-Rajasthan National Highway. Since avenues of employment in the above districts of Rajasthan are limited, these children are being recruited by recruiting agents from Rajasthan for work in M.P. in this sector.

II Sector-Beedirolling/Labelling/Packaging

Beedi rolling, beedi labeling and beedi packaging is a traditional occupation since times immemorial; this is also largely a home based occupation. Nationally about 10 million workers are engaged in beedi rolling, beedi labeling and beedi packaging in A.P., Bihar, Chattisgarh, Gujarat, Jharkhand, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and West Bengal. This being a home based industry, husband, wife, other family members including children are engaged in beedi rolling, labeling and packaging. In the existing scheme of things, the contractor issues the raw materials (tendu patta, tobacco and dhaga) and collects the finished products. In doing so he also take recourse to rejection of a percentage of the finished product on the plea that they do not conform to prescribed specifications. In M.P. it is known as Chat. Beedi rolling is a hazardous occupation/process

on account of (a) the exposure to tobacco which causes respiratory problems (b) working continuously in a single posture which causes backache (c) drudgerous nature of work which tells on ones nerves and so on. Considering these implications employment of children in beedi has been prohibited by issue of a notification by the Ministry of Labour.

In 90s when I was Union Labour Secretary (1995-2000) a drive was launched for issue of identify cards to beedi workers. Under Rule 41 of Beedi workers' Welfare Fund Rules, 1976, it is the responsibility of the employer/contractor concerned to issue such cards. Since the employers in MP relented, cards were issued with the help of staff (MO and paramedical staff) of dispensaries set up under the Beedi Workers Welfare Fund. In all 6.5 lakh such cards were issued by 1996-97. Beedi is a home based industry and going by a very modest estimate that at least 10 PC of beedi workers will be children MP had 65,000 children rolling beedis in 1996-97. During the long interregnum of last 10 years, this number would have gone up at least by 25 PC (@ 2.5 PC every year) which means that there would be about 80,000 children rolling beedies in MP today.

On the basis of the outcome of the drive which was launched then such workers are concentrated in Sagar, Satna, Sehore, Damoh, Jabalpur, Gwalior, Indore and Datia.

III. Sector-State Pencil Making

Mandsaur district had at one point of time 178 State Pencil units operating in the residential areas of Mandsaur town and

village Multanpura. The District Industry Centre (DIC) Mandsaur developed a special complex in the industrial area of Mandsaur for these units by constructing 38 industrial sheds and allotting them to the owners of slate pencil units on lease.

According to the information furnished by the Director, Factories, Government of MP to NHRC, Mandsaur town presently has no slate pencil unit running in the residential area.

In the same report, it was stated that village Multanpura has 34 slate pencil units mostly scattered in the residential area. Efforts are on to persuade owners to relocate their units in the Industrial Estate developed by AKVN, Indore but have not been successful so far. Slate pencil making has long since been identified as a hazardous occupation under CL(P&R) Act where employment of children stands prohibited. This is so on account of the fact that prolonged exposure to silica dust which is generated in slate pencil making units causes the dreaded occupational disease - silicosis which is untreatable and once afflicted life may come to end sooner or later (between 1 to 5 years).

Considering the fact that silicosis affliction is endemic to Mandsaur district the first NCLP was sanctioned in this district by Government of India, Ministry of Labour in 1988. Subsequently an ILO-IPEC project was also under operation for several years since 1992. Regular inspections of slate pencil units are being carried out by the officers of Directorate of Industrial Health and Safety. A separate office of Asstt. Director, Industrial Health and Safety has also been established at Maundsaur.

Regretfully despite all these measures children continue to be employed in large number in slate pencil making units of Multanpura and Botalganj. The cutting of the mineral takes place illegally at home and power connection for the said cutting is taken unauthorisedly. In course of interaction with officers of Labour Commissioner's office Indore on 4.8.08 it transpired that children of 1200 families are engaged in packaging of slate pencil and very little control can be exercised as it is a home based operation.

It was also stated that slate pencil industry is a racket and is mostly being used as a device for transportation of opium.

Considering the fact that nobody uses slate pencil today (it has been replaced to a large extent by other writing materials), considering the fact that it leads to silicosis which is a deadly killer and also considering the fact that persuasive efforts and palliatives have failed, it is necessary and desirable that production of slate pencil be totally banned by law. After introduction of Forest Conservation Act, 1980 there are as of now only 4 mines which are operational (against 15 in the beginning) and therefore, in the interest of protection of life and limb of workers in general and those of children in particular such a course of action needs to be taken on priority.

III Sector-Brick kilns

Like slate pencil, operations in brick kilns are considered hazardous and employment of children in these operations has been prohibited since long. This is because brick moulding operations would expose the moulder to a lot of dust and the

moulder who inhales that dust would be a victim of asthma, pleurisy, TB and other respiratory diseases. Similarly, carrying a heavy load of bricks from the point they are dried in the sun to the kiln would result in backache and spondylitis.

Tragically enough despite these occupational hazards children continue to work with parents in brick kilns in Bhind, Bhopal, Raisen, Vidisha, Mandsaur, Indore, Ujjain, Nagda. Very often the kilns are given on contract and the contractor does engage children.

IV Sector-Carpet weaving

One important factor which adversely affects the health of children employed in carpet weaving is the fact that they in view of their poor height and weight (due to malnutrition) find the job taxing and drudgerous and often complain of headache, blurring of vision, backache, pain in the abdomen and limbs. These could be attributed to long duration of work (12 to 14hrs), poor lighting and ventilation and bad postural conditions.

It is precisely keeping these adverse effects of work in carpet weaving on the health of children that employment of children in carpet industry was prohibited under CL (P&R) Act.

These notwithstanding children continue to be employed in various operations of carpet industry in Bhind (Gohad), Morena (Sheopur), Jabalpur and Mandsaur, the last are being managed by Khadi and Village Industries Commission.

V Sector-Fireworks

Long working hours, unhygienic and unsafe surrounding, dealing with chemicals (chlorates, phosphorus, sulphur) payment of less than subsistence wages and extremely hazardous tasks disproportionate to the age and strength of children (Article 39(e) of the Constitution) are the characteristic features of child labour scenario in any match and fireworks factory.

It is precisely for these reasons that employment of children in match and fireworks was prohibited since inception under CL(PCR) Act, 1986. This notwithstanding children continue to be employed in Rau (Indore), Bhind, Morena, Shivpuri and Datia. Like slate pencil making this is also a home based enterprise which remains mostly invisible to the officers of labour law enforcement machinery. Casualties do take place but neither they are reported nor workmen's compensation is paid in a single case.

VI Sector- Domestic help

Employment of children as domestic help was prohibited by issue of a notification dated 10.10.06 by the Ministry of Labour as such employment was considered hazardous to the life and limb of children on account of long hours of work, oppressive treatment, low wages and hazardous tasks to be performed.

In M.P, children both from outside into MP and from out of MP to other parts of India work as domestic help in large number. Children go from out of Alirajpur in Jhabua to Gujarat (Mori) near Godhra in Panchmahal district as also to Nathadwara in Bhilwada district of Rajasthan.

Children are also employed in automobile works in all the 50 districts, in cement factories at Rewa, Sidhi and Singrauli, in stone quarries of Raisen and Vidisha, in artificial jewellery in Indore, Gwalior and Jabalpur. In the last category of employment, children come mostly from Malda, Hooghly, Howrah and Burdwan districts of West Bengal and from Jalore in Rajasthan.

Migration

Large number of families migrate from Jhabua (almost 75 PC), Badwani, Dhar, Ratlam, Dewas, Khargone, Khandwa, Chattarpur, Tikamgarh, Morena, Bhind and Gwalior. Most of this migration is to Surat in Gujarat in search of better employment and wages. It is a misnomer as most of the powerlooms in Surat in which they seek employment are unauthorized and conditions of work are no better in diamond cutting and polishing either. The migration takes place with families. The children are also pushed involuntarily to work for long hours and low wages and turn out to be physical and mental wrecks, apart from being worst victims of educational deprivation.

Migration involving free movement from one part of the territory of India to another being a matter of fundamental right (Art 19 of the Constitution) can not be prohibited; it can be prevented and its incidence minimized by making certain planned, coordinated and concerted efforts at the originating point such as creating stable and durable avenues of employment, payment of same wages to women as men for same and similar nature of work, bringing more and more employments into the schedule of MW Act and fixing, reviewing, revising and enforcing minimum wages. This is not being done.

Our greater concern should be to release children from work at destination points, bring them back home and rehabilitate them through education, nutrition and skill training. This can be done by constituting teams of officers, deputing them to the destination points in consultation with the Labour Deptt. of the destination State so that such teams can visit the worksites where migrant labour from MP are working, talk to them, listen to their grievances and make a sincere effort to redress the grievances with the help of officers of Labour Deptt. of the destination State and bring back the workers to MP if they are working under bonded or slave like conditions and are unwilling to put up with the inhuman and oppressive treatment meted out to them.

No steps have been taken in this direction so far.

Other facets of the performance of the Labour Law enforcement machinery of Madhya Pradesh

- Between 10th October, 2006 and Jan 2008 and according to the report furnished by the office of Labour Commissioner, 3300 inspections have been conducted, 108 cases of employment of children in the prohibited category found, 96 children belonging to other States sent back, 15 children have been put in protective homes set up under JJ Act, 33 children have been put to public schools and 14 to schools under the SSA;
- According to the response sheet to the questionnaire circulated by me between 2003-04 to 2007-08, a total number of 22,932 inspections have been conducted but only 130 children could be found to have been employed in the

prohibited category. The response sheet does not indicate if they are insiders or migrants and if migrants, whether they have been sent back to their respective States;

- The apparent discrepancy between the two sets of figures would need to be reconciled;
- Compared to the number of inspections conducted the number of prosecutions (77) is too small out of which 58 have ended in acquittal and only 19 in conviction. Such a track record indicates that prosecutions have not been pursued in right earnest or there were some flaws in the nature and content of the prosecution itself for which it ended in acquittal. In either case such inspections have not created any desired or perceptible impact;
- Unlike Maharashtra, Task Forces have not been constituted at the district level to conduct raids on various establishments on the strength of credible intelligence that children are working in the prohibited category in those establishments. According to a report published in Free Press only one raid has been conducted so far on 25.6.08 on Bada Sarafa jewellery market in Indore city and 6 children were rescued as they were found to be working in hazardous condition (as acid is used in jewellery making). The raid was conducted on a complaint from the NGO Bachpan Bachao Andolan and with assistance from the BBA workers. According to the reports published in Free Press, these children were made to work for at least 15 hours in some jewellery units but were getting nothing more than a pittance as part of the payment. Since

acid is used in manufacture of jewellery it makes the process extremely hazardous and, therefore, employment of children stands prohibited. Children, however, are brought from both West Bengal and Rajasthan by middlemen after luring their parents and on payment of some advances. This makes the children as bonded labourers but not a single case has been detected under Bonded Labour System (Abolition) Act so far;

- The 6 children released are: Sanjeev (13), Soumetra (13) both of Burdwan district of WB, Samlal (13) of Hubli, Karnatak, Mundaram (13) of Pali, Rajasthan, Govinda (13) and Manoj (11) of Jalore, Rajasthan. They have been put on child line at Sanehataganj before being restored to the custody of their parents;
- In all such cases, children should be kept for at least 2 months in the Protective Home set up under the JJ Act in transit and their education, health, recreation etc. should be fully taken care of before they are restored to the custody of their parents and rehabilitated at the originating point. This should form an integral part of the State Child Labour policy and action plan for elimination of child labour as in Maharashtra. Since there is no State level action plan as yet the existing arrangement can be said to be only ad hoc;
- According to the direction of the Supreme Court in its judgement dated 10.12.96 arising out of CWA No. 465 of 1986 MC Mehta vs. State of Tamil Nadu a sum of Rs. 20,000/- per child employed in hazardous work is recoverable from every offending employer. In pursuance of this direction

only a paltry sum of Rs. 4,95,000/- has been collected from offending employers and credited to the District Child Labour Welfare-cum-Rehabilitation Fund. Since 8826 children were found to have been employed in hazardous occupations/processes a sum of Rs. 17,65,20,000 or Rs. 17.65 crores was recoverable. As was observed in my earlier review report of Jan'07 what has been recovered is only a pittance of what was recoverable. There has been no improvement in the amount recovered so far after 1996-97. The situation needs to be reviewed as apart from non-compliance being a contempt of the apex court, the laudable intention of the Court that this money should be utilized for the welfare of poor children for their higher education has not been translated to action. There is the recent case of a poor SC student from AP qualifying in JEE and getting a seat in IIT Chennai being assisted by Collector, West Godavari from out of the District level Welfare-cum-Rehabilitation Fund as the student was finding it difficult to join the IIT due to acute financial difficulties. Even though one and half years have passed since my first review report was released and sent by the Commission to the State Government, the latter have not been able to explain fully their poor performance in terms of compliance with the orders of the apex Court. Non-availability of names and addresses of the employers could be hardly a plausible reason or explanation for non issue of RRCs as the Inspectors are required to collect these full details at the time of inspection itself;

- In pursuance of the direction of the apex court in the said judgement a special cell was created in the office of the Labour Commissioner, Indore in 1998 comprising the following officers:-

Dy. Labour Commissioner	-	1
Asstt. Labour Commissioner	-	2
Labour Officer	-	2
Data Entry Operator	-	1

No work was done by the Cell in the first 2 years of its existence. Now it has been reported that 26 PC of the posts have been transferred to Chattisgarh State and 30 PC of the posts have been surrendered due to economy measures taken up in the State and, therefore, the Cell is not working to its full capacity. It, however, fails to report as to what work has been done so far either by way of designing IEC materials, for dissemination of constitutional and legal provisions, for maintaining constant liaison and coordination with district administration in 50 districts, assisting the district administration in collection and compilation of intelligence about existence of children in different areas and sectors and enabling the latter to take timely preventive and corrective action within the ambit of the law and directions of the apex Court.

Administrative Infrastructure

The post of the Labour Commissioner is lying vacant since June, 2008 after the incumbent to the post –Sri Rajneesh Vaish was transferred and posted as Commissioner, Narmada

Development Authority. The Labour Secretary- Sri P.C. Meena is currently holding charge of Commissioner of Labour (it is understood that he also has been shifted in the meanwhile). He functions from Ballabh Bhawan, Bhopal while the office of the Commissioner is at Indore (180 Kms away). This arrangement, howsoever temporary, is bound to adversely affect the functioning of the office of Labour Commissioner as there will be no direct personal supervision of the office and the functionaries from the Head of the Deptt.

As far as the field functionaries are concerned, 62 posts of Inspectors and Dy. Inspectors are lying vacant against 242 posts sanctioned. This also is bound to adversely affect the pace and progress of the required number of inspections under CL (P&R) Act being effectively conducted with a view to rescuing and releasing children from work, enrolling them in the formal school system or NCLP, as the case may be, and securing their timely rehabilitation.

Indus Child Labour Project

The Madhya Pradesh Jan Shikshan Adhineyam, 2002 and related MP Jan Shiksha Neyam, 2003 provide for free education of all children in 5-14 age group in the following manner:-

- No child shall be denied admission for elementary education in Govt. schools or schools managed by local bodies;
- No person shall prevent a child in 5-14 age group from attending schools;

- Any person violating the provision of sub section (1) of Jan Shikshya Adhiniyam may be punished with fine which may extend to Rs. 1000/-;
- The fine may be imposed by the Gram Sabha or local body after giving the person concerned an opportunity of being heard;
- No tuition fee shall be charged in respect of a child attending a State Government school or a local body school.

The above provisions are fully in tune with the spirit of the judgement of the Supreme Court in J.P. Unnikrishnan and others vs. State of AP and others (1993) SC 645 as also with that of the subsequent 86th amendment of the Constitution in 2002 and insertion of Art. 21 A making access to free and compulsory education as a matter of guaranteed fundamental right of all citizens. The provisions are, therefore, laudable.

With a view to achieving the above laudable objective and making it coterminous with elimination of Child Labour, Labour Deptt., Govt. of MP in coordination with ILO selected 5 districts i.e. Damoh, Jabalpur, Katni, Sagar and Satna for (a) withdrawing children in 5-8 age group from work and enrolling them in formal schools (b) enrolling children in 9-13 age group who are either dropouts or who have never gone to school in Transition Education Centres (TECs) and providing them education according to a condensed curricular for 2 years prior to mainstreaming them in the

formal schools (c) imparting vocational skill training to adolescents in 14-17 age group so that they could use the skills imparted as a tool for their subsequent rehabilitation by way of wage employment or self employment (d) promoting and encouraging formation of SHGs for mothers of these children so that they can stand on the foundation of economic self reliance and be encouraged and motivated to send their children to school.

INDUS Child Labour project is a joint collaborating arrangement between Government of India and Government of USA entered into in August 2000 to achieve the primary objective of elimination of child labour in 10 sectors namely beedi rolling, labeling and packaging, brasswares, brick kilns, fireworks, match and explosives, leather footwear, glass bangles, lock making, quarrying and silk.

In pursuance of the above, the project was launched in MP in 2004-05 in the following manner:-

- 40 TECs in each of the 5 districts with 50 children each, two academic instructors, one vocational teacher, one resource centre volunteer one clerk-cum-accountant and one helper.

In MP, work in the following was identified as hazardous:-

- Limestone quarries;
- Stone crushers;
- Beedi making;
- Work in motor garages;
- Work in small factories;

Normally, there will be no occasion for children in 5-8 age group to be employed in such hazardous occupations/processes but children in 9-13 could or might. The TECs are meant for children in the latter age group with the following objectives:-

- To ensure regular attendance of children;
- To retain children in TECs;
- To educate them through a bridge course;
- To mainstream the children to lead schools in neighbourhood.

The SSA which was already operational in the State provided the following support to TECs:-

- Slum profile development in slums where TECs are located;
- Child-wise profile development of children enrolled in TECs;
- 20 days TECs teachers' training;
- TEC teachers' training in lifeskill module;
- Development of bridge material;
- Distribution of bridge course books to children enrolled in TECs;
- Vocational training.

The table below gives district-wise break-up of the latest States about TECs:-

District	No. of TECs Sanctioned	No. of TECs functional	No. of children enrolled			No. of children mainstreamed
			Boys	Girls	Total	
Jabalpur	40	23	470	462	940	1013
Katni	40	40	1214	1126	2340	2340
Sagar	40	23	676	430	1106	2457
Damoh	40	10	296	205	501	2686
Satna	40	26	626	595	1221	1477
Total	200	122	3290	2818	6108	0073

The above table may be analysed as under:-

- Of the 5 districts only Katni could achieve the target;
- In Damoh there is a huge gap between the target and the achievement;
- Girls are always less than boys in terms of enrolment;
- The mainstreamed figures are much higher than the number enrolled which needs to be explained.

Vocational skill training for adolescents in 14-17 age group is an important component of INDUS Child Labour Project. The objective of vocational skill training is (a) to provide opportunities for learning certain skills/trades by those adolescents who may have received education up to a particular level, who may not be

interested in pursuing their education further but may have the aptitude, preference and interest to learn certain skills which will make them more functional and autonomous in life (b) vocational skill training would provide an opportunity for wage employment/self employment and will thus be a foundation for economic self reliance. Since these adolescents were earlier working in hazardous occupations/ processes, by learning a particular vocational skill/trade it was expected that they would never go back to those hazardous occupations/processes. Vocational skill training has the following sub components:-

- Identification of agencies;
- Selection of master trainers;
- Designing the aimcum, course content and textual materials for training;
- Orientation of master trainers;
- Conducting a survey for identification of learners/beneficiaries/participants;
- Selection of skills/trades according to aptitude preferences and interests of the learners;
- Distribution of tool kits;
- Imparting of institutional lessons;
- Learner evaluation;
- Application of skills;

- Institutional support by way of placement/tie up with industries as well as institutional financing agencies to provide credit for self employment, market support etc.

In INDUS Child Labour Project, MP, 2 professional agencies were selected for this purpose namely;

- I Centre for Research and Industrial Staff Performance (CRISP).
- II Centre for Entrepreneurship Development, MP (CEDMAP).

While the first was responsible for Jabalpur district, the second took the responsibility for Sagar, Satna, Katni and Damoh.

The trades/skills which were selected for implementation by the first agency (CRISP) were repair and maintenance of electrical appliances, wooden furniture, nursing assistant and ward boy, garment making, leather/rexin bag manufacture, welding and fabrication, beauty parlour, garment making, handicraft, screen printing, photography and videography, mobile repairing, plumbing, jewellery making, embroidery and zari work. Some of these skills were common in the list of skills/trades selected by the second agency with the following additions:

House wiring and motor rewinding, tractor repairing and maintenance, two wheeler/three wheeler repairing, raj mistri, bar binding, bicycle repairing, computer training, soft toys and decorative items, paramedical/radiology and Lab. Technician, food and fruit preservation, body building for lorries, bamboo craft,

ophthalmology, TV/radio/tape repairing, motor mechanic, car mechanic, carpenter, painter, fitter, marble cutting, polishing, animal health work, book binding, wooden furniture making, spinning etc.

These skills/trades were not common for all the four districts where vocational skill training was entrusted to CEDMAP. Their selection and application depended on the availability of raw materials, availability of the market, access to technology and credit and last but not the least the aptitude, preference and interests of the learners/beneficiaries.

The picture that emerges at the end of this entire process is widely varying from district to district but considering the fact that such a process was initiated for the first time for a specific target group (who were working children earlier and who have been withdrawn from work) and conducted in a organized and systematic manner by two professional agencies who had the experience, expertise and commitment to the particular task mandated for them the results may be considered to be encouraging.

In Jabalpur district, against the target of 1000, beneficiaries who were selected, who received the tool kits and who have completed the training numbered 1002 with a fair measure of representation of boys and girls, members of SC, ST, OBCs and general categories. The P.C of total number of employed persons in Jabalpur works out to 74.55 which is quite encouraging. Of the total employed the PC of self employed works out to 39.02 while the PC of wage earners works out to 35.33. The table below indicates the performance in regard to the process and outcome of vocational

skill training in Sagar, Satna, Katni and Damoh districts which were entrusted to CEDMAP:

Component for assessment	Sagar	Satna	Katni	Damoh
1. Target	1000	1000	1000	1000
2. Trg. completed	1007	1025	946	1007
3. Total placement	582	788	637	653
4. Job placement	545	273	534	306
5. Self employment	37	515	103	347
6. Success rate	59 PC	79 PC	63 PC	65 PC

There is a perceptible difference between wage employment and self employment. Much of the success of wage employment would depend on (a) health of the enterprise (b) stability and durability of employment (c) overall attitude and approach of the employer (d) quantum of wages vis a vis market forces, cost of living index and purchasing power of the currency.

As against this, the success of self employment would depend on (a) access to skill (b) proficiency acquired in the skill (c) access to credit (d) access to technology and (e) access to market and (f) stability vs volatility of the market forces.

While wages may be fixed according to a pattern and in conformity with certain principles and may not ordinarily go downwards in wage employment in self employment income and earnings from sale of the end product could always be fluctuating.

The most striking plus point in self employment is the excitement and joy of creation of a product, through ones

imagination, ingenuity, resourcefulness and skill, the dignity and self esteem with which the performer may function and the supreme satisfaction of optimally harnessing the potential acquired through the vocational skill training.

Profit motive being the key to the survival and growth of every enterprise, in wage employment there is always a tendency of depressing wages or not maintaining a workplace which will be healthy, hygienic and safe and taking recourse to unfair labour practices. Considering all these limitations, it is evident that (a) vocational skill training under INDUS Child Labour Project has been a splendid initiative (b) this constitutes a very good beginning in an area which was conspicuous by its absence earlier (the component of pre-vocational skill training in NCLP was found to be weak) (c) the coverage of boys and girls, members of SC, ST, OBC has been a balanced one and (d) honest, sincere and dedicated efforts have been made to bridge the gap between expected outcome and actual outcome.

There is a very strong case for (a) continuing this initiative for a larger coverage and (b) for replication of this replicable model in other districts (out of 50 districts in MP only 5 were covered).

I had the occasion to interact with the Project Directors INDUS, Damoh, Project Director INDUS, Katni, Vocational Skill Training Coordinator, Jabalpur and Satna and State Project as well as Asstt. Project Coordinators from 10 am to 12 noon on 4.8.08 in the office of the State Labour Commissioner, Indore. Some of the redeeming features as well as grey areas which emerged from this meeting and interaction are indicated below:

Redeeming Features:

- I The coverage in all the 3 target groups i.e. 5-8 age group, 9-13 age group and 14-17 age group has been appreciable (except Jabalpur where working children in 5-8 age group were small (374) which otherwise is a good index of low incidence of child labour in that age group.
- II State level consultation took place at Sagar in 2005 followed by district level consultation in all the 5 districts in 2006 prior to launching/commencement of project activity.
- III The responsibility for survey was entrusted to Deptt. of Sociology, Hari Singh Gaur University in Sagar, teachers of Sarva Shikshya Abhiyan in Damoh and Jabalpur, Nehni Yuva Kendra Sangathan in Katni and Satna. These are reputed institutions/agencies of long standing and there is no reason to doubt the authenticity of the outcome of the survey.
- IV The responsibility for recruitment of functionaries of the project such as Field Officers, Community Supervisors and Community works was entrusted to NGOs of repute and standing. By and large, good human resources were selected for the 5 projects in five districts.
- V A planned, coordinated and concerted effort was made to build an environment which would be demand driven and which would be conducive to smooth operationalisation of the project. The tools used for environment building were skits, role plays, nukkad nataks, essay and poem writings, wall writings, posters and banners and taking out rallies.

A gathering of 10,000 + children with involvement of all the stake holders was organized at Jawaharlal Nehru Stadium, Bhopal on 12.06.06 i.e. Anti-child Labour International Day for (a) dissemination of the central message of the project and (b) for mobilizing and motivating them for participation in various activities of the project.

- VI A list containing names of children in 5-8 age group was sent to the District Project Coordinator, Sarva Shikshya Abhiyan. A 'school chalo' (on to the school) campaign was launched by Sarva Shikshya Abhiyan. All children in this age group have been enrolled except Katni (where some children were already enrolled or names did not figure in the list).
- VII As far as management of TEC is concerned, there was no problem in hiring accommodation, teachers were generally of acceptable or higher standard, all teachers have received training in DIET, there has not been any reported absenteeism of teachers, charts and posters in adequate number have been procured and displayed and the craft teacher was found capable of imparting skills which are simple, harmless and market relevant.

I. Mainstreaming

For mainstreaming children in 9-13 age group into the "Lead School' after successful completion of courses of studies in TECs, tests were conducted by teachers deputed by SSA. Approximately 90 PC of the students qualified in the test. In

other words, the mainstreaming has been of the order of 90 PC.

- IX All the 'Lead Schools' where children in 9-13 age group have been mainstreamed are Government schools and from the point of proximity, accommodation, number of teachers, teaching aids, teaching learning process qualify to be 'Lead Schools'. The Project Director has been able to visit all the TECs opened and functioning in the project area as also all the 'Lead Schools' in the area.

X **Vocational skill training:**

A lot of advance planning and preparation by way of organizing awareness camps and ensuring universal participation by way of inviting parents, teachers, members of the local community and children to such camps took place. The skills/trades have been selected with a lot of care and always in conformity with individual preferences and need. Labour market survey in all the 5 districts was also conducted, focused group discussions took place and expert opinion solicited. A questionnaire was also prepared for employers and the potential for job placement was surveyed. The response to the questionnaire was analysed while training in about 20 to 25 skills/trades was imparted in each of the 5 districts. One hundred PC job placement took place in truck body building and electrician trades. The job placement officer appointed for every district made sincere efforts to bridge the gap between number of learners trained and the number given placement.

Grey areas or areas of genuine concern:

- I There were gaps between TECs targeted (40) and actual number of TECs opened. Except Katni where all the 40 TECs were opened, there were gaps in Jabalpur, Sagar and Satna with Damoh accounting for the maximum gap (only 10 TECs were opened and functional). In PC terms only 61 PC of the targeted TECs could be opened and made functional.
- II There were problems and delay in designing bridge course materials by Rajya Shikshya Kendra of SSA. It refused to supply these materials in 2008-09 on the ground they have no authorization. The project authorities are managing with old text books.
- III There were serious problems in procurement and supply of text books. The total requirement of text books is (40x50x5) 10,000. The MP Text Book Corporation has printed the books but not delivered. These text books are to be supplied free of cost under SSA. The matter has been taken up with ILO Sub-regional Office and the latter in turn has taken up the matter with Ministry of HRD which provides the budget to Rajya Shikshya Kendra but there is no improvement in the situation. INDUS can not directly procure the text books from MP Text Book Corporation as (a) it does not have the budget for the same and (b) the budget is provided by MHRD. The special schools of NCLP are also facing the same problem.
- IV Despite clear instructions issued by the SSA that no pre-conditions are to be laid down for mainstreaming children from TECs to 'Lead Schools' the Head Masters of 'Lead

Schools' are insisting on age certificate and transfer certificate (TC). While the TC can be issued by the project authorities of INDUS, submitting age certificate is a genuine problem as (a) births are not registered 100 PC in rural areas (b) it is a formidable problem to approach a Medical Officer for determination of the age of a child and obtain an age certificate.

- V The HMs of 'Lead Schools' have also a lot of mindsets and reservations about the quality of teaching learning imparted in TECs. According to them (this is a pre-conceived notion), these children have received substandard education in TEC and are not fit to be admitted to a Government School or 'Lead School'. Even after admission the students from TECs are given only second grade treatment (this was exactly my impression when I visited a 'Lead School' in Shivajinagar in Mumbai suburban district on 26.7.08 along with the Project Director). There is a close and continuous follow up for mainstreaming from the side of the Project Officers of INDUS but their efforts have invariably not been crowned with success.
- VI There have been problems in selection of community workers in Katni project on account of political interference for recruitment of a few favoured candidates.
- VII Change of Project Director and Field Officer by Collector, Sagar unilaterally without taking the State level Project Director into confidence has led to a lot of demoralization and demotivation of field personnel.

VIII Activity centres in all TECs have been closed down since April, 2008 without any justification. These centers were doing useful work in conducting a host of activities for the students of TECs.

IX **Mobilisation of women/mothers of working children into SHGs:**

This has been the weakest component of INDUS Child Labour Project in MP even though there is no doubt or dispute about the validity and efficacy of this entire strategy. Operationalisation of this component has been considerably delayed and performance in terms of coverage of beneficiaries in skill training and credit support has been unsatisfactory. The community workers were responsible to start the process but they have failed in this task. In Jabalpur, Sagar and Satna skill training to members of SHGs is yet to begin; it has started only in Damoh and Katni. In Satna, grading has been completed for 15 out of 48 SHGs; they are eligible for revolving fund assistance of Rs. 2000/-. However, since training in Satna is yet to begin revolving fund will not make much of a difference to the lives of the women members of SHGs as income can flow from out of a particular chosen avocation and the management of the avocation will make sense with skill training. Besides, it was reported by the Project Directors of Damoh and Katni that where such skill training has been taken up the support of DUDA and DRDA was not forthcoming even in cases which qualify for genuine and eligible assistance.

- X. The PDs ventilated a grievance that due to uncertainty about project period no proper planning is possible. The life of INDUS is to end in September 2008 but there is no communication from Head Office of the Project authorities about the modalities of winding up the project.

Meeting and interaction with senior officers in the Office of Labour Commissioner and Director, Industrial Health and Safety:

I met Sri Rajneesh Vaish, former Labour Commissioner, Additional and Dy. Labour Commissioners, Director, Industrial Health and Safety and his other colleagues (from 12 noon to 3 pm) on 4.8.08 to elicit their ideas and suggestions on the strategy to be adopted to deal with the challenges to elimination of Child Labour. The following ideas and suggestions emanated from this meeting:

- I. Parents need to be made aware of the consequences of pushing children – theirs and our own succeeding generation involuntarily to work. Once a balance sheet is properly drawn up and placed before the parents highlighting the short term benefits and the long term damages which are being caused to the health, psyche and total development of children by exposure to hazardous work (dust, heat, fume, gaseous and toxic substances), parents will be sensitized, will wake up and make up their mind never to send children again to work. Simultaneously parents need to be sensitized about the value and importance of education in the life of every child so that they would not have any further doubts like 'a few hours spent at

the work place is worth spending years in school' and will make up their mind to send children to school.

- II. A very strong advocacy is needed for such sensitization and motivation. Software (songs, skits, role plays, nukkad natak etc) needs to be designed by creative thinkers, writers, artists and performances need to be staged in every ward, mohalla, village to carry conviction to the parents that what they have been doing so far is wrong and, therefore, they should not repeat the same in future; that would tantamount to carrying their own off springs to the brink of near total destruction.
- III. The task of dissemination of such messages to the parents and households could also be entrusted to Panchayats and other local self governing bodies, extra-departmental employers of Post and Telegraphs Deptt., anganwadi workers etc.
- IV. Similar sensitization exercises need to be carried out for employers of enterprises and their Central as well as State and district level organisations such as ASSOCHAM, FICCI, CII, AIOE, AIMO, Chambers of Commerce and Industry etc. It was stated that employers do not attend meetings convened at the State level. Sometimes they depute representatives at a very low level. They do not want to change the technology (which is antiquated) and go in for a new technology which will bring safety to the life and limb of workers. They also do not want replacement of children by adults through use of modern technology.

V. In the same fashion, destination States for migrant workers need to be sensitized. For MP, people migrate from Jhabua to the quartz cutting and crushing units in Godhra in Gujarat which is only 40 kms from Jhabua. Over 200 people from Jhabua on an average go to these units for work being unaware of the fact that quartz cutting and crushing is fraught with deadly occupational risks and hazards. Government of MP has deputed teams from the Directorate of Industrial Health and Safety to Godhra 2 years ago and they have impressed on the destination State i.e. Gujarat on the desirability of banning quartz cutting and crushing as an extremely hazardous operation. The destination State did not pay any heed and has not till date paid any heed to this request. Government of MP wrote to NHRC and the latter in turn wrote to the Ministry of Labour. DGHS, Dhanbad which is a subordinate officer under Ministry of Labour has not taken any decisive action in regard to banning quartz mining. Similarly DGFASLI, Mumbai has not intervened in stopping the hazardous process of quartz crushing.

The political and Economic Weekly has in an article captioned 'Contract Killings: Silicosis among adivasi migrant workers' published in its June 21-27 2008 issue reported as under:-

'While the booming economy of 'Vibrant Gujarat' absorbs thousands of adivasis into its labour force, the work on offer is mostly below minimum wage, with no provision for health care and other forms of social security and no protection of worker's rights (Bremen 2003). In the case of industries like the 24 quartz crushing

units in Balasinar, district Kheda and Godhra the work is also acutely hazardous. A 1982 study of ambient air quality in 6 factories by the National Institute of Occupational Health (NIOH), Ahmedabad found that silica dust was present in concentrations between 81 and 660 times higher than the threshold limit value considered as the international standard (quoted in Shilpi Kendra 2007:37). The few studies conducted subsequently by the Gujarat Pollution Control Board (GPCB) show that air pollution levels continue to be dangers above what is safe for workers. Yet despite the stringent regulations specified for quartz crushing units by the Central Pollution Control Board (CPCB) and the NIOH, there is no system of regular monitoring in place. Nor has any effective punitive action been taken against factory owners. The owners are fully aware of the toxic nature of their operations:-

Before visiting the factory they instruct the manager to switch off the machinery for a few hours and allow the dust to settle so that they can avoid inhaling it. Payments to Labour Inspectors and Pollution Control Board officials persuade them to look the other way; payments to politicians ensure that the interests of industrialists are protected and promoted. Political patronage and a complicit bureaucracy can help subvert even investigations by high powered committees.

In 2006, on the day that a committee set up by the CPCB and headed by the Director, NIOH visited Godhra to examine working conditions and air pollution, none of the quartz crushing units was in operation, ostensibly because of load shedding.

When a team from the NHRC visited the factories in October, 2007 they found that most of the units were locked and shut. Evidently the owners had been tipped off in advance about the investigation.

Under the circumstances it is difficult for adivasis to expect any kind of protection or compensation. They are undocumented workers whose names never appear on the register of factory employees. They work in groups on piece rate negotiated with intermediary contractors and mukaddams, cut outs who make it impossible to trace a paper trail that leads to the actual employer. As migrants far from home, their vulnerability in the work place is intensified.'

VI To maintain liaison and coordination with the destination State, to provide a forum for ventilation of grievances of migrant workers as also to provide relief to them through timely and appropriate interventions, an institutional mechanism was set up called 'Palayan Soochana Kendra' at Jhabua with the initiative of Gramin Vikas Trust, an NGO. The Centre has provided a helpline, as an avenue for ventilation of grievances of workers migrating from Selana and Basna, two blocks of Jhabua to Gujarat. It was reported that about 10,000 workers used to migrate to Gujarat after Diwali. The Kendra used to depute its activists to the destination point where the migrants work, meet them, listen to their grievances and help redress them with the help of officers of law enforcement machinery of destination state. This is a very effective institutional mechanism and deserves

to be replicated in such districts of MP which constitute the originating point for the purpose of migration.

- VII There are several occupations and processes such as fireworks, slate pencil making, agarbatti making etc. which are carried on at home. The employers take advantage of the proviso to Section 3 of Child Labour (Prohibition and Regulation) Act and claim protection from applicability of the law to their establishments. Officers of Labour Law Enforcement machinery also find it difficult to visit/inspect such homes for reasons of privacy and sensitivity (many of these home based enterprises are in the homes of numbers of minority community).

The proviso to section 3 of CL(P&R) Act reads as under:

‘ 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

The workshop referred to in this proviso must be construed to mean that of the occupier as defined in Section 2 (VI) and its members have to be of the occupier's family. This means that members of a family of a person other than the occupier to whom the occupier, for the purpose of manufacture, has handed over the raw material to complete the process elsewhere, including his own home to be returned to him do not receive protection.

Unfortunately, however, most State Governments/UTs and districts administrations tend to include jobs, operations and

processes that are carried out within residential premises as falling within the purview of the proviso to Section 3 and tend to extend the protection to workers who are engaged in these jobs, operations and processes which are logically not extendable.

This interpretation of the law needs to be driven home to all State Governments/UTs, District Administrations, Central Employers and Trade Union Organisation so that unmerited and misplaced benefits are not conferred on employers by wrong interpretation of the law.

An execution summary of observations, conclusions and recommendations

- I. The State Government are in the process of formulating a Labour policy. In the report of the Committee constituted by the State Government to prepare and submit a draft policy document, elimination of child labour does not figure in clear and concrete terms. It is desirable that a clear, concise and yet decisive statement spelling out the policy and modalities of translating the policy to concrete action be included in the framework of the policy. Simultaneously the State Labour Department needs to prepare a State Level Action Plan for elimination of Child Labour spelling out the object, time frame for elimination of child labour, role of various departments and agencies in translating the object to action, financial requirements for survey, enforcement and strengthening the commissionerate of Labour and set up of Directorate of Industrial Health and Safety etc.

- II. Currently, there is no institutional mechanism either for giving policy thrusts and directions or for monitoring, supervision and coordination. Two such mechanisms, therefore, need to be set up, one under the Chairmanship of Chief Minister for policy directions and another under the Chairmanship of Chief Secretary for monitoring, supervision and coordination. The latter body may also review the functioning of NCLP and INDUS Child Labour Project and issue necessary directions to improve the content and quality of programmes.
- III. Since there are varying estimates of child labour population by the decennial census, NSSO Survey and SSA, Principal Secretary, Labour may invite the representations of these nine agencies to understand the methodology for conducting surveys/enumeration with a view to arriving at a definite estimate.
- IV. Areas and sectors in which children work - both hazardous and non hazardous have been clearly indicated at page 12-18 of this report. This is indicative and not conclusive and has been reflected in the report on the basis of discussion/interaction with NGO, voluntary Action Groups, Social and Educational activists and representatives of the media. The State Government and Commissionerate of Labour may use this as a reference guide to conduct survey and draw up their action plan for elimination of Child Labour.
- V. Survey is one of the established tools for enumeration of persons in a particular age group in a particular area. Such survey can be an effective tool if (a) survey teams are

constituted properly (b) they are given a brief but meaningful orientation (c) questionnaire designed for the survey is simple and non-intrusive and (d) the canvassing of information is done in a friendly and informal manner. Besides, the entire operation will have to be carried out in a discrete manner without any publicity/propaganda. No such survey has been undertaken in M.P. after 1997-98. The last survey had also not identified the full Child Labour population. What was found (11,820) is a minuscule of the actual child labour population. While taking a decision for a fresh round of survey the State Government may bear the above 4 points in mind to arrive through survey a realistic estimate of child labour in the State.

- VI. Conducting raids is yet another effective tool for unearthing working children and rescuing/releasing them from work. Such raids will have to be on the principle of 'Operation Surprise' to be effective. They will have to be conducted by a team of officers professionally competent to conduct such raids and only after collection of accurate and credible intelligence about presence of working children in specific areas and sectors of activity. It has been suggested at page 20 of the report that the State Govt. could think of constituting district level task forces on the model of Maharashtra. The State Labour Commissioner may visit Maharashtra, discuss with his counterpart about the composition and functioning of the task force and suggest to the State Government for adopting implementing the Maharashtra strategy which appears to have been very effective.

VII. Inspection is one of the primary tools of law enforcement, it is also a primary tool for securing compliance with the provisions of the law by the employers of the establishments concerned. In the context of elimination of child labour, the apex court has observed that inspections should be conducted primarily to unearth working children. In MP, as would be evident from page 19-20 of the report between 2003-04 to 2007-08, a total number of 22,932 inspections have been conducted but only 130 children could be found to have been employed in the prohibited category. Such a category in the context of MP is in respect of employment of children in (a) hotels/motels/dhabas (b) slate pencil making (c) brick kilns (d) carpet weaving (e) fireworks (f) domestic help (g) automobile works. It is, therefore, not credible that over a period of 5 years only 130 children could be found in the prohibited category while according to non-official sources thousands of children are at work in this category. Either secrecy and confidentiality of inspections were not observed, the employers got tip off about the impending inspection and sent the children underground or there has been some other flaw in the inspection process. Collusion between the offending employers and law enforcement agency may not also be ruled out. There is, therefore, an imperative need for planning out an inspection strategy in such manner that it becomes a source of strength in unearthing working children.

- VIII. Migration of adult parents is taking place from as many as 12 districts (as observed at page 18) to Gujarāt and Rajasthan. Since migration can not be arrested fully steps should be taken to prevent it and minimize its incidence by creating avenues of stable and durable employment, enforcement of minimum wages, payment of equal wages to women and men for same or similar nature of work and so on. Simultaneously and when migration takes place despite best of efforts, the pockets of migration should be identified, information about destination point to which families have migrated should be collected, teams of officers of Labour, Health and Home (Police) should be constituted and visits undertaken to destination points to establish contact with the migrant workmen and their family members, give them a patient hearing and help redress their genuine grievances with the help of the enforcement machinery of the destination state. If it is found that migrant workmen are working under bonded conditions, they should be straightaway got released and brought back to the originating state.
- IX. With a view to discouraging children to accompany adult parents rural crèches or child recreation centres should be created where the health, nutrition, education and recreation of such children could be taken care of by the originating State.
- X. A raid was conducted on 25.6.08 in jewellers' establishments of Indore city and 6 children who were found working in a prohibited category were rescued and kept in a child line.

The JJ Act provides for setting up of Protective Homes for such children. Such Homes which do not exist in all districts of MP should be set up and their management entrusted to NGOs of repute and standing.

- XI. According to the directions of the Supreme Court dated 10.12.96 arising out of CWA No. 465 of 1986 a sum of Rs. 20,000/- is recoverable from every offending employer responsible for employing children in the prohibited category. Since 8826 children were found working in the prohibited category a sum of Rs. 17.65 crores was recoverable. As against this, a paltry sum of Rs. 4,95,000 has been collected and no clear reasons for such poor recovery are forthcoming.
- XII. A Cell was constituted comprising of 5 officers and supporting staff in the office of the Labour Commissioner but has been by and large non-functional. While the excuse of diversion of staff to Jharkhand State (created w.e.f. 15.11.2000) has been given, there is no indication as to what was done during 1998 to 2000. This is yet another major deviation/non compliance with the directions of the apex Court.
- XIII. The administrative infrastructure suffers from a number of deficiencies; it is neither adequate nor sensitive to the need nor effective. It is a unwholesome arrangement by which Labour Secretary is made to hold the post of Labour Commissioner; it is also unworkable as the two are located at two different places separate by nearly 200 kms. The post of Labour Commissioner should be filled up at the earliest; there should be delegation of sufficient administrative and financial

powers to make him more effective. The 62 posts of Inspectors should also be filled up at the earliest.

- XIV. Instructions issued by MP Jan Shikshan Adhiniyam, 2002 and related MP Jan Shikshya Niyam, 2003 are laudable but the ground level situation and implementation of those instructions are quite to the contrary. The Head Masters of 'Lead Schools' seem to have terrible mindsets, they create obstacles in mainstreaming the children from TECs and treat these children in the category of second class citizens. Such a tendency which is highly regrettable should not be allowed to grow into a cancer of the educational system; the culprits must be dealt with utmost stringency and deterrence so that they do not repeat such abhorrent acts.
- XV. As observed by Sri Rakesh Bansal, former Principal Secretary, Labour, INDUS Child Labour Project is conceptually sound, has several silver linings to its credit but there are also grey areas. Such areas lie in (a) unwarranted political interference in recruitment (b) unilateral replacement of project staff by the Collector which is demoralizing (c) apathetic attitude of DUDA – DRDA in supporting SHGs (d) gaps between targets and achievements in TEC mainstreaming of TEC children as also in vocational skill training.
- XVI. The two professional agencies i.e. CRISP and CEDMAP have given an excellent account of themselves by adopting a step by step professional approach in designing the curriculum, in selection of master craftsman and organizing their training, in

distribution of toolkits, in imparting instructional lessons and in facilitating job placement of the passed out. It was a sheer treat to listen to the 2 presentations made by the Chief Executives of these two agencies on 6th (AN) in the conference hall of CRISP where the Finance and Accounts Officer of INDUS Project from ILO, SRO, New Delhi was also present.

- XVII. Since there are a number of unfinished task and some of the components of the project like formation of SHGs started late it may be in order if the life of the project is extended by a couple of months so that the unfinished tasks can be completed and the objective of the project fulfilled to a large extent.
