

Are you **anti #ChildLabour** ?
or **#AntiChild** ?



National Consultation on Child Labour
Bangalore, 14th July 2015

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With Notes from Nishita Khajane

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Held at: Ashirwad, #30 St. Mark's Cross, Bangalore 560001
Held by: The Concerned for Working Children (CWC)



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1 Background

This is a pivotal moment in the conversation on children's rights. A proposed amendment to the current Child Labour (Prohibition and Regulation) Act (1986) is being tabled in the Monsoon Session of Parliament in July, 2015. The Child Labour Amendment Bill (2012) proposes bringing the Child Labour Act into line with The Right of Children to Free and Compulsory Education Act (2009) and the ILO Conventions 138 and 182, which require all children under the age of 14 to not work and attend school; and all children over 14 to not be involved in hazardous work. The exceptions, as per the Ministry of Labour Press Note, are for those who work in family enterprises and in the audio-visual entertainment industry.

Although official census data suggest that child labour in India has been decreasing, these numbers have been questioned and contested by numerous independent bodies. The questions regarding why the current system has failed to address child labour so far remain unanswered. Also, from the perspective of children, the questions lying on the supply side of the issue such as why do children undertake hazardous work, has not been addressed and the right of children, to be heard remains unactualised in this process.

In the light of such a scenario, it is crucial that child's rights advocates deepen the conversation about child labour and explore nuanced approaches to dealing with this difficult issue, rather than relying on black-and-white policies such as bans.

To this end, The Concerned for Working Children hosted this conference on child labour 1) to discuss the current state of working children in India; 2) to explore the question of why children work; 3) to provide a history of child rights laws in India; 4) to problematize the underlying presumptions of the proposed amendment; and 5) to emphasise the importance of listening to children and respecting children's right to self-determination in crafting policies that affect them.



2 Narrative of National Consultation on Child Labour

2.1 Introduction

The event began with opening remarks by the Director of Advocacy (CWC), Kavita Ratna, who gave a special welcome to each of the child participants in attendance. She then recalled a document that was produced at a workshop facilitated by the CWC in 1990 that remains relevant today. Some of the conclusions drawn from the workshop included:

- Child labour is a symptom of a larger problem.
- We cannot think of the child as an abstract entity, but as members of communities.
- Child labour needs to be examined in its larger socio-economic-political context. Poverty is a major cause of child labour, but it has also been used as an excuse for inaction.

Kavita then encouraged everyone in attendance [to introduce themselves](#). After this, a series of messages from organisations and experts who could not attend the conference were read aloud. The common theme between each message was that the proposed child labour amendment lacks nuance; it simplifies the realities faced by child workers and does not take the opinion of children into consideration. The final message that was read framed the commonly held view succinctly: “the ‘86 law was bad—this one is worse.”

Kavita then moved to introducing the premier of a CWC docu-drama, [Banned Aid: When protection ends in exploitation](#). The docu-drama was 15 minutes long, and traces the experiences of child workers in Karnataka. One boy summarized this common feeling by stating, “They talk about eradicating child labour. Are we pests?” Children in the film held contrasting views on child work and child labour, but there was a common thread in each response: They did not feel that government officials, and more broadly, adults, take their perspectives into account.

After the documentary concluded, Kavita introduced the first session of the day.

2.2 Session 1: The changing nature of poverty post globalisation

Speaker:

- Dunu Roy (Social activist & head of the Hazard Centre, New Delhi)

Session summary:

- Biplaw Singh (The Concerned for Working Children)

In his presentation, Dunu explored the complex relationships between development, labour, children and the state. With his opening question, “How is school work different from waged work?” Dunu problematized our standard equation of school = good, work = bad.

A major theme of this presentation was “Development for whom?” Development is generally regarded as being good for everybody, but the present government’s economic policies do not benefit the population equally. The middle classes and the economic elites are the main beneficiaries of policies designed to promote 'development'. Between 1950 and 2000, India’s population has grown three times, whereas the GDP has increased 20 times - and yet India still does not have enough resources to pick its masses out of poverty.



This, Dunu explains, has to do with what we think 'development' means. Breaking down India’s GDP growth, the service sector has increased exponentially, the industrial sector has increased minimally, and agriculture has significantly decreased in its contribution to the GDP. It is important to note that the service sector is informal and disorganised, with long hours and no wage security, whereas industry is more formal and organised.

Similarly, food-grain production has increased four times, whereas India’s population has only increased three times, yet large segments of India’s population do not have enough to eat. Domestic savings have also increased, but this has remained confined to specific areas and segments of the population, while India’s national debt has skyrocketed since the 1990s. This is not happening randomly, but rather as a result of specific government measures and policies that have non-egalitarian vision of what development means. It is not a vision that includes, for example, an equal distribution of wealth.

Economic inequality in India is increasing. The Gini coefficient measures the ratio between the top 10% and the bottom 10% of the population. On a scale of zero (where everyone has equal wealth) to one (where a single person owns all the wealth), in the 60s India’s Gini coefficient was 0.3; in the 1990s, it rose to at 0.4. The rich are getting richer and the poor are getting poorer, and this phenomenon underlies the creation of cheap labour.

In order to increase economic productivity, governments prefer populations focused in urban centres rather than dispersed across rural areas. This is because a person's productivity increases four times when they move to an urban centre from a rural sector. This does not mean, however, that the worker receives four times higher wages. According to the World Bank, urbanisation is an integral part of development, and this process both requires and produces cheap labour. For this reason, a government that is focused on economic growth will want to enact labour law reforms – but who benefits by this? Once again, this explains why increased migration in India is not an accident – agriculture is no longer practical for many people because of government policies that promote urban development to the detriment of agricultural production.

The focus on development and urbanisation means that policies regarding children's education are aimed at making children productive members of society. Vocational training plans mean that by the age of ten, children are already being trained to be labourers in a capitalist economy. Skills that advance this goal are promoted, and other skills and types of education are ignored or omitted. Currently, the skills that are being promoted (computers, for example) are that skills that will be useful in the informal sector, where workers often lack protection, organisation, and mechanisms to petition for better wages.

It is not possible to engage in the child labour debate without thinking about what the States larger approach is. Children's labour and education are determined by how the state drives development policy on behalf of elites. Policies that promote a certain type of development create systems, which children must navigate; we cannot ignore these systems in formulating a response to child labour. Bans on child labour, and 'rescue and return' policies are often doomed to failure, because the question "return them to what?" is never answered. Programs and policies that facilitate economic inequality and reduce employee protections contribute to child labour. Child labour cannot be addressed without understanding the larger political and economic context of Indian society.

After the presentation, the floor was opened for questions and reflections. Nairita Banerjee (CINI India) wondered if redistribution was a possible solution to economic inequality. Dunu observed that whatever the goals of redistribution and ration cards are, in its current form, it is an ineffective system and needs to be overhauled if it is to be useful.

Anita Cheria (Open Space, Bangalore) asked how Dunu defined the middle class; he defined it as the 'consumption class', approximately 110 million people who provide a buffer between the interests of the wealthy and the needs of the poor. Mariyappan, (Shakti Vidiyal, translated by Sakshi), raised the point that India's labour market is affected by the trends of global capitalism. Multinational companies come to India looking for the cheapest form of skilled labour: if they find it in women, or children, they will use it, so there is competition within labour itself. Finally, Gowthaman (ALF) identified the difficult moral question at the heart of this conversation: How do we make a value judgement about child labour? Who can say that it is 'right' or 'wrong' for children to work? Nairita, in agreement, wondered how to maintain the balance between economic and social development.

Dunu insisted that we understand that they are linked, and returned to the original question: What is wrong with work? Without work we cannot survive.

The distinction lies in which kind of work. He posited that if children should not be doing a certain kind of work because it is hazardous, then perhaps nobody should be doing that work. Labour is always dependent on other factors. Shoe shining, for example, is hazardous because of the chemicals used, but if we did not have a consumer preference for shiny leather shoes, it would not be a problem. All work can be made simpler and safer, but if the a government wants to push development in order to extract more from production, that government will not invest in safety. Dunu then returned the conversation to children's agency: the government might say it is 'bad' for children to work, but if the child wants to work because his or her family is hungry, then the child might say that it is 'good' to work. The conversation concluded on its original point: development for whom? Who does this benefit?

[Click on this link to listen to a live recording of Dunu Roy's presentation](#)



2.3 Session 2: A fragmented response

Speakers:

- Khushboo Jain (Researcher & Social Activist)
- Christopher William (International Justice Mission, Bangalore)
- Fr. Edward Thomas (Former chairperson **KSCPCR** & Executive Director, **BOSCO**)
- Arlene Manoharan (Fellow, Programme Head – Juvenile Justice, Centre for Child and the Law)

The panellists for Session 2: Khusboo Jain, Christopher William, Fr. Edward Thomas and Arlene Manoharan, were introduced. Unfortunately, Vimala Ramachandran (Educationist, Education Resource Unit) could not attend but [she sent her inputs through a paper](#) she had written documenting her understanding of the relationship between education and child labour. The session was structured to showcase how the current response to child labour is deeply inadequate. While some children like those who live and work in and around railway premises find no mention at all in this system; there are responses such as those to child trafficking, which while being banned is still thriving as an industry in the country. Also, speakers were requested to explore the current connections between education, the juvenile justice system and child labour – as these two are the 'safe' institutional spaces that children are often shifted into when 'rescued'.



Khushboo Jain began the discussion by presenting her experience with children who live in and around railway premises. Jain started her presentation with an anecdote about a group that offered street-children day-care and a space for living, but the children refused it. This spurred her research into why children do not want to be institutionalised. Jain then recalled her experiences working specifically with children working in railway stations. After a train severed a child's body, she launched a complaint in an effort to prevent similar

incidents from reoccurring in the future. In actuality, though, the complaint that she had submitted resulted in children being pushed further down the tracks outside of railway stations where trains would be traveling faster, which proved to be less safe than before. As a result of this event, Jain concluded that governments and NGOs alike, who often claim to 'protect children', fail in doing so because they have no interest in listening to kids express their needs.

Jain stated this experience to make a larger point: Sometimes NGO work, whether it is in the form of petitions, letters, or in-person activism, can ultimately do more harm than good. Her experience with her complaint ultimately placing railway children in greater danger made her realise that children's perspectives must be listened to, because if they are not they will ultimately reject the system and the institutions that allow it to function.



NGOs must, according to Jain, stop looking at children as isolated—they must receive acknowledgement that they, too, belong to communities. But even further, NGOs and activists-alike must be cognisant of the perspectives that they are operating from when they listen to the voices of children. In the same vein, she then asked whether 'we' are a part of the same community as these labouring children.

Jain's work led her to believe that there may not be a single solution to the issue of child labour in India. Rather, activists can start by "laying out all of the problems onto the table," listening to children and respecting their capacities as autonomous agents, and moving on from there. Children must be, according to Jain, respected as social animals and thereby allowed to form groups, express their sexuality, and listened to.

[Click on this link for a live recording of Khusboo Jain's presentation](#)

Next, Christopher William spoke about children trafficked for labour. He began by explaining that human trafficking is commonly viewed as taking place within 'sexual' realms. This understanding, he said, should be drastically altered. Instead, trafficking should be split into three categories: the source where it is from (where they are living), the destination is where they are being exploited, and the transit point (e.g. Bangalore as an example). William then stated that Karnataka is second in the nation for trafficking, which offers activists and government officials alike a chance to find a solution. He encouraged attendees to expand their notion of 'exploitation' further—towards inclusions of social, religion, political, etc. on top of physical and sexual exploitation.



William then listed the constitutional protections that exist to, in part, provide against trafficking. Among them, Article 23 (prohibiting trafficking in human beings and forced labour), Article 39 (e) (no one is forced by economic necessity to do work unsuited to their age or strength), Article 39 (f) (childhood and youth should be protected against exploitation). But irrespective of constitutional provisions, trafficking continues and many people continue to suffer from exploitation. He then stated that there is only one functioning Anti-

Trafficking Unit (ATU) within Karnataka, with only one individual—an inspector—who is operating the unit. Williams closed by stating that Karnataka is preparing an Action Plan to prevent child trafficking, but more needs to be done.

After William concluded his presentation question the comment period began. An audience members asked, "at some point, NGOs bear responsibility for these issues too—we can not solely blame all issues on the State. So where do we go from here?" Jain answered: "There is no concrete answer. We [with reference to NGOs and the State] must engage with one another when finding solutions."

William's answer was similar, he stated that NGOs and government must be partners, and NGOs must fill in the gaps where government boundaries fail to reach.



Next, Damodar Acharya (Executive Director, CWC) added another dimension. He said that when governments or NGOs take away children and tell them they will be provided protection, at no point are the children's perspective being taken. Is not that also a violation by the state? He questioned why this is not even considered a violation of children's rights. William responded to the question with agreement, but stated that raid and rescue is the product of a much larger systemic issue. William agreed that children's perspective should be taken into account, answers need to be given by the children as to why they will not go to their homes. He then stressed, again, that NGOs, civil society organizations must step in at this junction, work with State, and share their perspective. Jain responded to the question simply, stating (in agreement) that 'raid and rescue' is a form of trafficking.

Nandana then added to the discussion, thanking Jain for recalling the importance of introspection. She stated that through introspection we reach critical questions: Is our intervention really going to benefit children we are setting out to help (in the short term and the long term)?; Is intervention simply putting them into our little box of what we believe they should be? Or are we allowing them to determine their own framework and live by it? Do we respect their framework? Dunu added to Nandana's statement. He stated that forms of development themselves are constructs; all of the groups we are talking about today have been pushed out, and have not been given a voice or say in the social construct that they would like to have. So in a way, he stated, there are two extremes: A construct provided by the state (and NGOs, which evidently allows them to go out and 'help' those from outside society); and the other construct of those who are voiceless—those who may stress a society that is more equal, more fair, more inclusive, etc. He closed by reiterating a common theme throughout the day's presentations: activists have no right to make decisions on the marginalised without hearing their input.



After lunch, Arlene Manoharan provided the third presentation of Session 2: a law-based discussion on the juvenile justice system. She began by displaying the aims of the Juvenile Justice Act, and stated that it does not apply well to children who need more care. She mentioned that the theme of 'restoration' (of children) back to their community and families runs through the legislation, but is not present in reality. Manoharan then posed a rhetorical question: why is it that none of us [activists] would take

our children before a CWC (Child Welfare Committee)?



Because it's "us and them," she stated. She then moved on to state that it is now activists duty to ensure that the JJA and CLA are enforced in ways that will bring about good decisions for children. She shared a series of policy recommendations on how the to promote pro-child outcomes. Manoharan concluded by calling for activists to make inputs on the ground, rather than simply engaging in academic exercises. She stated that that the Juvenile Justice Bill is not preventive—it is reactionary. Moving forward, this needs to be addressed.

[Click on this link for a live recording of Arlene Manoharan's presentation](#)

Finally, concluding the presentations from Session 2, Fr. Edward spoke candidly about education. Fr. Edward began by resolutely declaring that the CWC has communicated to working children that "we are with you." He spoke about the vital role that education plays in society, and some of the issues that he has encountered with retaining children in schools. The major question he sought to answer was how can activists ensure quality education provided in government schools? Fr. Edward then stated that MPs and MLAs simply do not understand some of the institutions that they are supposed to be responsible for, the Education Department being a prime example of this. He stated that oftentimes they do not understand the realities of some students not seeking to participate. A solution, he stated, was for teachers who abuse children to be held accountable. "No one should take advantage of anyone, regardless of their religion, when it comes to education." The fix to the issues he spoke of, he argued, was devolution of power: micro planning and unity between government and civil society at the Gram Panchayat level.



After Fr. Edward concluded his talk, the floor was open for questions and comments. Damodar Acharya stated, "Accountability should be decentralised so children are able to hold local governments accountable. One of the biggest problems we face has been the centralised structure of everything we are speaking of. How can we expect a centralised system to be held accountable by children?" If local government is to be accountable then it devolution of adequate funds, functions and functionaries must take place.

Unfortunately, currently the opposite is taking place. Hence, when we speak of state accountability, it can only happen when government is made truly accessible and their capacities built to forward this end. Next, an audience member stated how she went to one of the so-called 'child labour free zones' and found that there were children working in factories.

Poverty was still present. She stated that children worked from 5-9 in the morning and 5-9 in the evening post school. Parents were happy, companies happy, schools happy, but children were not happy. Finally, Praveen, an ex-member of the Bhima Sangha, clarified that: "Education can take place in work just as it takes place in school. It is more complex than is being presented."



Fr. Edward replied to each of the above statements by saying that safe work taking place in an unsafe environment is unsafe. When talking about accountability, the ICPS (Integrated Child Protection Scheme) is supposed to be grassroots based but the problem is that we have people on top who change its nature. Damodar then interjected, stating that he is opposed to this missionary project mode, where things might be good if there is a solid minister, but it does not address the systemic issues. He shared that the challenge is to get accountability decentralised to the panchayat level. Manoharan answered the above questions and statements in agreement. She stated, again, that JJ is incapacitating. She stated that she does not believe in only the law's power to ensure social change—it takes people to come up with a different kind of policy making. Agreeing with the common calls for decentralisation, she concluded that planning can no longer be top-bottom, it needs to be bottom-up.

[Click on this link for live recording of Fr. Edward's presentation](#)



2.4 Session 3: The current law and the upcoming amendment: How do we move forward?

Presenters:

- Kavita Ratna (The Concerned for Working Children)
- Arpita Joshi (The Concerned for Working Children)

Kavita provided an overview of the history of child labour laws in India. In 1919, India was a signatory to the Prohibition of Child Employment Convention. While India committed to providing legal protection for working children, this protection was carried out in a piecemeal manner: instead of drafting a general policy, protections for child workers were enacted sector by sector through dozens of individual laws. Children's interests and rights were not directly addressed, and this approach to children's rights did not change with the enactment of the constitution. It was not until 1979 that the Gurupadaswamy Committee Report identified that poverty and child labour were linked. The Committee explored banning work in hazardous sectors and regulating it in others, taking a broad and multi-pronged approach to the problems of working children.



It was children themselves who provided the impetus for overhauling these laws. In 1984, at a Bangalore labour union meeting, a group of working children realized that the law did not meet their needs or support their rights, and so they asked for the law to be changed. This action resulted in the drafting of Karnataka Child Labour Bill in 1985.

Originally titled 'employment, regulation, training and development', this Bill took a broad view of child labour within the purview of children's rights. Impressed, the Karnataka Minister passed it onto the national level, where children were an effective part of the presentation team. In response, the Minister set up a drafting committee, which reviewed and reworked the Bill. During this process, the Bill became the 'prohibition and regulation' Act – the unionisation and development aspects were removed, and our current Act consequently lacks the teeth to effectively address the problem of child labour.

India's child labour laws often look good on paper, but fail to address the roots of the problem. In 1987, a National Policy on Child Labour was formulated, with a strong focus on the rehabilitation of working children – a focus that was largely missing in practice. In 1988, the NCLP education project was launched in 9 districts with high rates of child labour. A review committee found the program totally ineffective in both design and implementation - although it remains in place to this day.



Another trend in child labour laws is the increasing globalisation of responses to it. In the 1990s, the ILO became the global driver in the fight against child labour, concurrent with increasing awareness that child labour was clearly linked to global trade. International strategies to address child labour began to depend on boycotts and an extremely siloed understanding of child labour, with no appreciation of the root causes of child labour. This desire to address a global problem with blunt tools sometimes forced children into even more hazardous conditions.

On the other side of the debate, however, are organisations such as the International Movement of Working Children. This organisation asks not for a ban on child labour, but for the international community to respect the agency of working children. The CWC advocates for an approach that takes the voices of children into account, and understands that the problem of child labour is interconnected with larger social, political, and economic issues. In the Indian context, upcoming labour legislation aimed at decreasing the ability of workers to unionise will have a negative impact on working children. This would be a blow to working children's interests, reminding us that children's rights are inextricable from human rights.

Arpita began by stating how 2013 heralded a period of hope for those in the child rights sector due to the progressive and democratically debated National Policy for Children that came into being in conjunction with India's commitments to the UN Convention on the Rights of the Child. Yet, while India has this Policy, it is unsure how to truly actualise its spirit on the ground or even through its laws and law making processes.

She provided an overview and analysis of the proposed Child Labour Amendment Bill 2012. The Bill is intended to keep India in line with ILO Conventions, which again points to the power that global economic organisations have in framing the child labour issue irrespective of local response and experience. It creates a complete ban for children's work under the age of 14 and creates the category of 'adolescent' (14-18 years old) to regulate their work in hazardous areas. It initially included no provisions to guide regulation and no list of processes or occupations that are hazardous.

The Bill provides for a few exceptions to be made for children working within family/family enterprises that are not hazardous and audio-visual industries. These exceptions are arbitrary and problematic, as keeping labour in the family can re-produce caste and contribute to the increase of informal, unregulated labour. Agriculture, for example, is permitted, but agriculture is a difficult workspace for children and not formally regulated. Furthermore, in the context of global supply chains, work is shifting into family spaces to keep it out of sight and regulation. These are huge issues that are not caught by this Amendment Bill. The concern is that India is simply trying to look good by ratifying international conventions, rather than actually addressing the issue of child labour.

These concerns were also shared by the Standing Committee on Labour, which examined the Bill and at the end of its report was forced to conclude that "(...) instead of entrusting various ministries with this task, the government should bring a New Child Labour Policy and the machinery to implement laws, policies and projects should be specified therein".



India has lived with this law for over 30 years, which is plenty of time to assess its impact. The consequences include:

- a. The traumatising of raided and rescued children: raids are arbitrary and uninformed
- b. The criminalisation of poor parents, who are penalised when their children are found working, which makes their situation worse
- c. The process of institutionalisation and the improper way it's carried out violates children's basic rights
- d. No long-term support after release means children who are "rescued" often end up in the same situation or worse
- e. Reducing numbers of inspections and poor conviction rates makes this system even less effective
- f. Unused child labour funds – only a few states have a fund and utilization is extremely poor; the money languishes in state coffers
- g. Child labour figures in the census have been severely questioned – India's child labour percentages are probably 3x as high as reported

In conclusion, this law is not helping the people it was intended to help, and often contributes to the marginalisation and poverty of working children and working families. Emphasising on the need for an evidence based democratically debated law making process, Arpita pointed to the many researches that were surfacing on child labour which pointed to the complications involved in supporting children to get out of hazardous labour; to Bolivia's radical 2014 law that was initiated by working children's organisations, which allows children to engage in wage labour. Bans are not the only way to address child labour, and as the Indian example has shown us, it seems increasingly like bans are not working.



2.5 Session 4: Listening to children

Facilitated and moderated by:

- Fr. George Kollashany (BOSCO Justice Mission)

Presented by:

- Hemavathi, Malashree, Basavaraj and Thayanna (Children's Union representatives in partnership with CWC)
- Mahalakshmi and Mariyappan (Sakthi Vidiyal)
- Haseena (Chiguru)
- Roja and Vandana (Children's Union members in partnership with APSA)



The representatives of Bhima Sangha, Hasiru Sangha, Chiguru and Sakthi Vidiyal met at the venue in the morning with facilitators and translators in order to prepare for the day ahead. They learnt more about each other and through lunch and the specific preparation period given to them, they discussed the core issues affecting them and how they would like to represent these diverse opinions and issues to the audience. After discussion they decided that they would use creative mediums such as theatre and debate for getting across

their perspective.

The children of Shakthi Vidiyal, Madurai, presented a mute play to illustrate the double bind that working children often find themselves in, and to highlight the lack of options available to them. The child, having suffered from severe corporal punishment in her school, decides to drop out of school and begin working. The child begins to work alongside her mother, but once again suffers abuse from the hands of their employer.



The children of Bhima Sangha and Hasiru Sangha presented a play where the children depicted the difficult circumstances that drive children to work and the treatment they receive in the system. They dramatized the struggles of a boy who is forced to work out of economic necessity. He tries various types of work till he finds one that suits his capacity and ability.



As he is going about his daily work in a hotel, police 'raid and rescue' him and he is institutionalised, where he is again trapped against his will. Despite these threats and potential consequences, the children pointed out how important it was for this boy to work, given his condition.

The children of the Bhima Sangha and Hasiru Sangha had a debate amongst themselves focusing on the points below:

- a. Should children work below the age of 14 or not? While some children argued that it was important for them to work, some of them highlighted the problems that children face while balancing work and school.
- b. Some were in favour of children working (to help their families, or as a useful experience alongside school) and others were not (as it prevents them from doing what children should be doing). Some felt that a child's home situation dictates whether they should work or not.
- c. Debate regarding equality of gender also took place. The children raised issues regarding freedom for girls and the issues that they face.
- d. Is beating the only way to discipline children? While some children argued that being beaten is an essential component of the learning process, some children were of the opinion that children should be treated with love and affection; one can communicate and get across the message to children without beating them.
- e. Children who work often face significant economic pressures to work, but they also face difficulties at work, including aggressive 'rescue' and violence from employers
- f. All people want to work hard and make money – why aren't poor children allowed to do this? Why are the children of poor families unfairly targeted by these laws? Arbitrariness: why can children above 14 work but children under 14 cannot?
- g. Why have one more law? Why do we have laws? Is the law the solution?
- h. Why do some people get to tell other people what to do?



The children were of the opinion that adults had discussed for the entire first half of the day about what is right or wrong for the children: “words, words, words,” they commented. It was high time that the children had a say in what needed to be done to promote their own welfare. The children discussed the balance of work and school how both can help them.

In conclusion to the session, Fr. George highlighted the struggles through the process period. He shared how many children had differing views on issues but were willing to learn and re-think their positions on the basis of new learning and inputs. He also highlighted how the children were different from the adults in terms of speaking from their own experiences and deeply felt emotions.



2.6 Session 5: The road ahead: Building future agenda

Moderator:

- Dunu Roy (Social activist & head of the Hazard Centre, New Delhi)

Summarised by:

- Nandana Reddy (Founder, The Concerned for Working Children)

Post the Sessions 3 & 4, Dunu Roy was requested to moderate the last session to seek questions and thoughts from the larger audience. He shared – there are many reasons why children work or don't work. When we respond to the problem of child labour, should we be



responding at the micro-level or the macro-level? Is it worth our time, for example, to be formulating responses to this Bill, or should we be focusing on what children need? Listening to children is crucial, but it is not the end of the project. Once we've listened, what do we do? It is important to keep socio-economic and cultural contexts in mind, not merely as an afterthought, but as the key to finding solutions that work. Gowthaman (ALF) reminded the audience that law is not a panacea for all things, while Khushboo Jain

observed that law is not necessarily the right method for instigating social change. Law is a useful tool, but it is only one of many tools that advocates have to promote change. Both short and long-term solutions are necessary if we are to respond effectively and appropriately to the questions that child labour raises.

Babu (Equations) also raised the issue of how laws were not in consonance with the unique cultural and societal milieus we belonged to. It seemed to clinically dissect without taking into account the sensitive relationships which bind us to each other in families and communities. A lot of the laws seemed to be rooted in a Western understanding of society and the roles we play within it. He asked how we could unleash and utilise the positive side of our cultures to the end of better supporting our children.

Dunu concluded by observing that this is a violent and assertive state. Conflicts over gender, caste, religion is going to get more intense. We should not think that we are engaging in a debate in a gentle, patient space. This is not a compartmentalised issue: children's rights are part of much larger social, cultural and political issues.

In a closing statement, Nandana Reddy summarised some of the common threads of the day and provided a frank assessment of the road forward. She began by stating that law continues to be framed by people who have an agenda—nothing, she said, will change unless there is a revolution. The amendment is going to make little difference to anything—it simply carries an agenda, which is to promote the corporate world. Just like the educational agenda is to fit people into the corporate world as workers.



Nandana then stated that an arguing point for Bhima Sanga's underground movement was that they had to work because the government failed to address the situations that cause their impoverishment. The same, she argued, remains true today. She quoted Jayaprakash Narayan's statement from during the emergency: If the law is unfair, then it is our duty to disobey it.

Nandana then provided advice for activists. She then expressed that it is most important to ask "who are we?" As advocates of children activists have no right to do what they are doing; adult advocates have not been elected to do what they're doing. Nandana pointed out that adults and Bhimma Sanga are *partners*—adults are not their representatives. She then moved to affirming the importance of unionisation in the face of rights violations. She stated that people's rights will continue to be violated in spite of union membership, but at least their voices will be heard. Likewise, it is crucial that child workers be organised and unionised - and yet this right was not recognized in the Bill, even though three unions of working children participated.

Decentralisation is therefore key to this struggle. Decentralisation is the only way in which we can address and tackle root causes, enable children's participation, change the balance of power in favour of the marginalised (i.e., children), influence the model of development in favour of the poor, prevent fragmentation of programmes, and make governments truly accountable.

Nandana concluded by stating that if a law does not work, violates your rights, and is ineffective and poorly designed then it should not be obeyed. In the current legislative climate in India, the CLL is not the end of this conversation—she announced that we [activists] have probably lost that fight, but there are other fights remaining. It matters most that children are visible, listened to, and organised. She closed by expressing the need for advocates of working children to question the positions of the spaces we occupy, and ask ourselves if we have a right to sit here and say things on behalf of people who have not appointed us. When self-appointed advocates of children advocate on their behalf without consulting them and without insisting on their participation, we are occupying their space and effectively silencing them. Children must always, above all, come first.

3 Join us on the ‘Are you anti #ChildLabour or #AntiChild’ campaign!

The ‘Are you anti #ChildLabour or #AntiChild?’ campaign is an attempt at beginning a fresh conversation on child labour. We are using social media to: share up-to-date information on the child labour debate; hear and engage with a wider public on the issue. There are several ways to engage with us on this issue:

- Connect with us on [Facebook](#) and [Twitter](#) to get your present and opinion known by liking, sharing and commenting on our posts.
- Go to our [campaign website](#) for the basic resources and relevant readings on child labour and a more detailed explanation of our stance.
- Sign our [petition](#) to request Members of Parliament to withdraw the Child Labour Bill that is actually #AntiChild, instead of Anti #ChildLabour!



Annexure 1: Participants list

Sl. No.	Name	Organisation
A. CHILDREN & SANGHA PARTICIPANTS		
1	Vandana	APSA, Karnataka
2	Roja	APSA, Karnataka
3	Haseena	Chiguru, Bangalore
4	Mariyappan	Sakti-Vidiyal, Tamil Nadu
5	Mahalakshmi	Sakti-Vidiyal, Tamil Nadu
6	Thayanna	Bhima Sangha (B'lore), Karnataka
7	Basavaraj	Bhima Sangha (B'lore), Karnataka
8	Malashree	Bhima Sangha (Bellary), Karnataka
9	Hemavathi	Bhima Sangha (Udupi), Karnataka
10	Nagaraj Kolkeri	Namma Sabha member (ex-Bhima Sangha)
11	Praveen Kumjar	Namma Sabha member (ex-Bhima Sangha)
12	Bhavani	Namma Sabha member (ex-Bhima Sangha)
B. ADULT PARTICIPANTS		
1	Anam Akhtar	Action Aid
2	Aneesha	Action Aid
3	Anuroopa	Action Aid
4	Kshithij Urs	Action Aid
5	Reshma	Action Aid
6	Anita Cheria	Open Space
7	Mini Sayal	Magic Bus
8	Anupama	Magic Bus
9	Arlene Manoharan	CCL, NLSIU
10	B. Palaneeswari	Sakti -Vidiyal, Madhurai
11	Brinda Adige	Academy of Gandhian Studies
12	Darshna Mitra	ALF
13	Gowthaman Ranganathan	ALF
14	Deepa Dhanraj	Independent film maker
15	Dr. B. S. Anuradha	Ex-member KSCPCR
16	Dunu Roy (A. K. Roy)	Hazard's Centre, New Delhi
17	Durang	Equations
18	Father Edward Thomas	Ex-member KSCPCR
19	Father George Kollashany	BOSCO
20	Fr. Mathew Thomas	BOSCO
21	Dintomon P. D	BOSCO
22	Jenifer Y	BOSCO Childline
23	I. S. Patil	APSA
24	Josephdeyone Jacobi	Gubbachi Learning Community
25	Khushboo Jain	Independent researcher
26	Krithika B. S.	CCL, NLSIU
27	Kumar	Chiguru
28	Manogna K	Vimochana
29	Maria Subramaniam	GCI, Bangalore
30	Nairita Banerjee	CINI India
31	Nomita Wahi Sikand	Gubbachi Learning Community



32	P. Lakshapathy	APSA
33	P. William Christopher	International Justice Mission
34	Pravalika	Vimochana
35	Prerana	Onedede
36	Priscilla	World Vision India
37	Rajarajeshwari	Mahila Samakhya Karnataka
38	Rakshitha K V	Vimochana
39	Richard Gonsalves	Stree Jagruti Sameeti
40	Radha K	Stree Jagruti Sameeti
41	S. Babu	Equations
42	Samuel Sathyaseelam	CCL, NLSIU
43	Saroja K. S.	Chiguru
44	Somya Dimri	Gubbachi Learning Community
45	Usha	APD
46	Members of the Kundapur, Bangalore and Bellary team	The Concerned for Working Children



Annexure 2: 'Children, work and education' by Vimala Ramachandran

Several months ago I visited an educational programme called Namma Bhoomi in Kundapur near Udipi (Karnataka). Over a hundred boys and girls in their teens were studying in a residential school, trying to upgrade their educational levels while learning skills for employment and self-employment. Young boys and girls were training to become horticulturists, carpenters, masons, electricians, plumbers, mechanics, weavers and so on. Children of different age groups were working, learning and playing together – running from one end of the campus to another.

On my first day in Namma Bhoomi, a group of seven teenagers rolled out an enormous piece of cloth (traditionally known as a 'phad') and narrated the story painted on it by different batches of children over several years. They talked about the work children do – at home, in the field, with their parents, uncles and so on.

They talked about 'Bhima Sangha' – a union of working children, a children's help line, children's panchayat and appointment of children's friends – adults whom the children can reach out to. All 'working children' upto the age of 18 are welcome as members. This organisation conducts elections, interfaces with the panchayat and tries to solve the problem of children – enabling them to be retained in school, prevent them from migrating to the cities and so on.

In the last five to six years, efforts to improve the quality of education in primary schools, planning for the future and citizenship education has energised the community. Children talk about the work they continue to do at home, before and after school. Education and work, many of them argue, are not self-contradictory – provided the work is non exploitative. Empowerment of children through the Bhima Sangha and the children's panchayat (makkala panchayat) has made a difference. Interestingly, we did not come across even a single child who had not completed primary education.

As the presentation drew to a close one of them said, 'We are children and we also work. Are we weeds to be eradicated?' For a moment I did not understand what he was trying to say and I asked him who was out to eradicate them. Though he did not respond directly, I suspect he was upset with those of us who advocated complete abolition of child labour.

He said many children work – before school, after school, in peak agricultural seasons and during holidays. Older children went fishing with their fathers at night. Yes, he admitted, there were children (mostly in the 14-18 age group) who did not go to school and worked many more hours. He also talked about young boys of 12 or 13 from Kundapur, who run away from home to work in hotels and restaurants across the country. That, he admitted was not in the best interest of the child.



A young girl told us about how they ‘rescued’ children from hotels and went on a fact-finding mission to Bangalore to enquire into a fire where hotel workers had died. Their friends then placed before me a list of work that children engage in – those seen as not harmful and those that were. They read out stories written in their newsletter. Essentially, their message was for a more nuanced approach to the question of child labour and working children.

I must admit that I am considered a ‘hard liner’ on child labour, for I believe that all children have a right to basic education (not just primary education), which is a fundamental right. I was, therefore, pleasantly surprised when this group of young boys and girls wanted to talk about child labour and the responsibility of the community and the state.

I do not believe that every child who is out of school is by definition a child worker. Children drop out of school for many reasons – quality, relevance and dysfunctionality being important issues. There are those out-of-school children who just hang about; also children who are forced to quit school to work. We also know of situations where children mechanically go through five years of primary education and emerge barely literate – leading to community apathy towards schooling. Obviously the scenario is complex and does not lend itself to simple explanations.

Soon after my Kundapur trip, I went to the ‘infamous’ carpet belt of Mirzapur in Uttar Pradesh. I met a large number of children who had been ‘rescued’ from work and were studying in an alternative school in a time-bound programme that builds bridges to the formal system. I questioned the children about work and education. Interestingly, most of the girls said that they continued to work – before and after school hours. They all worked on *zari/gota* work, cooked, cleaned and did what they were doing before enrolling in school. Most of them worked long hours after school. The boys talked about the work they did at home, the farm and with their family members. Not surprisingly, the boys had more free time than the girls.

I asked them what happened after primary education? There was little information about those who graduated from these schools – some went on to government middle schools, some dropped out. The numbers, spread and quality of government middle schools, the children felt, left much to be desired. Overcrowding was common and many schools were dysfunctional. What bothered me was that while social mobilisation for ‘eradication’ of child labour was effective, the quality of education in many of the alternative schools/bridge programmes I visited across the region was not inspiring. All those who appear for the class V NFE examination are declared ‘passed’ and many of them find it difficult to cope with the formal system thereafter.

The older children, many of whom had completed class V or class VII, were anxious about their future and eager to acquire skills that would open avenues for employment or self-employment. Essentially, once they cross the magic barrier of age 14, or in some cases age 16 (class X), they are no longer classified as child workers and are on their own.

A social mobiliser in Mirzapur stated that while 'child labour' had become uncommon in their area, many traders had shifted their base to Bihar and other parts of Uttar Pradesh. He also admitted that children continued to work behind heavily guarded shutters – most of them in the 12+ age group. There was no child-to-child network that could reach out to such children.

Travelling across the country, documenting primary education programmes, I came across school-going children who worked and out-of-school children who were not engaged in any full-time work. I also came across 'rescued' child workers who were not sure what would happen to them after primary education, tribal children who have really no school worth mentioning in their area, and urban children in night shelters and drop-in centres.

Are all children in schools free from 'labour'? Are all children out-of-school workers by definition? How do we come to grips with the heavy work burden of girls – before and after school? What about children labouring during peak agricultural seasons or artisan children who absent themselves during peak business season? Obviously there are no simple answers to such complex situations and problems.

In the last 15 years the politically correct position in development circles was to declare that 'all out-of-school children' were by definition child workers. Several organisations and projects I visited in the last eight months admitted that while this indeed was their public position, they could not afford to be rigid on the ground. Conversely, there were those who argued that given the social and economic reality, working children had to be empowered and their rights protected. Pushing the issue under the carpet helped no one, least of all the children who continued to work. They argued that mobilising and educating children about their rights, creating a help-line and keeping avenues of dialogue open were perhaps the only ways to ensure that children are not exploited.

Looking at the work on the ground, I was left with the feeling that this divide was not as irreconcilable as it seemed. Let us unpack two rural scenarios and analyse the impact on the ground.

Scenario One:

- The starting point is that all out-of-school children must be brought into schools, thereby eradicating child labour.
- Emphasis on the responsibility of the state towards the fundamental right of every child to basic (not just primary) education.
- Simultaneously, mount a campaign against child labour – in the media, at the policy level, with the administration and the community. Declare products 'child-labour free', especially those meant for export.
- Identify and institute cases against people who employ children.
- Starting with contact centres in the village, organise bridge courses and enable children to get back into the formal system.
- Lobby with the government to admit children from bridge courses into middle and senior schools.



- Declare villages child-labour free and encourage the government and the community to take pride in this achievement – no visibility or recognition of work done by children (especially girls and those from small peasant families).

The accent is on social mobilisation and educational access, coupled with the duties and responsibilities of the government towards primary education. Teachers and social activists focus on enrolling every out-of-school child and leave the quality and achievement issue to the education system. They make efforts (at the policy and administrative level) to ensure children are admitted at higher levels; but where the ratio of primary to middle school and further to secondary schools is poor (for example, in Uttar Pradesh), there is little they can do after the primary stage. As their primary agenda is eradication of child labour, they do not have the organisational capability to take care of the educational needs of these ‘rescued’ children beyond a point.

Scenario Two:

- Start by talking to and gaining the confidence of the children and the community.
- Map the range of work that children are engaged in, both school-going and out-of-school children.
- Mobilise and organise working children into a self-managed association/organisation. Educate them about their rights, enable them to map the work children do and encourage them to set their own priorities for action.
- Simultaneously, work with teachers and the educational administration to look into what is happening inside the school. What are children doing, what are they learning and why do some of them drop out. In short, the pull and push factors that affect children’s access to and retention in schools.
- Children’s union/association to educate the community, set up a help-line and interface with local administration and panchayat. Create awareness about the rights of children (based on the convention on the rights of the child), namely right to education, freedom from exploitation, hazardous and non-hazardous work, shelter, nutrition and emotional and physical well-being of children.
- Older children encouraged to talk about their future – training, employment and self-employment opportunities and link education with future prospects.
- Children help-line to reach out to working children in distress, confront (even register cases) and work with the government, panchayat and employers to ensure the rights of children.
- Interface with panchayat, schools and the administration to address barriers and constraints that prevent children’s realisation of their rights, including education.
- Over a period, villages covered under the programme declare that their children go to school while acknowledging that their children do some amount of work at home.

The focus is on empowering children with knowledge, confidence and a collective strength to set priorities for action and help each other. Children discuss and determine what work they can do and what kind of work is hazardous to their growth and development.



The net result is withdrawal of children from full-time or hazardous work, while acknowledging the work they do at home, in the farm, in family occupations and in supporting the family during peak seasons. The quality, content and relevance of education are brought centre-stage in this approach. Social mobilisation and community awareness is achieved through the association of children.

What do the two approaches have in common? Children who participate in their programmes emerge as self-confident young men and women, carry themselves with great dignity and are not afraid to speak their mind. Both approaches focus on building the self-esteem of children. Theatre, music, games and a range of exposure visits and excursions give children a chance to experience the joys of childhood.

The endpoint, at least in organisations working with rural children, is the withdrawal of children from full-time work and enhanced access to education. Strategies and priorities are no doubt different and so is the starting point. While one approach gives primacy to the duty of the state to ensure that every child goes to school, the other lays emphasis on mobilising and empowering children under the child rights framework.

It is indeed unfortunate that the debate on children, work and education has been trapped in definitional wrangles and pointless rhetoric. The fact is that not all out-of-school children are full-time workers and a large number of children who go to school do some work – within the house, in the farm, in family occupations. Girls not only go to school and do housework, they also put in several hours of work rolling papad, or beedis, doing embroidery, disentangling wool and yarn and so on.

Drawing artificial boundaries between work and education is not desirable – because a little bit of work in a non-exploitative environment and in the family is not detrimental to their growth and development. Children from artisan families pick up the skill as children and so do thousands of girls who learn to cook at a very early age. The issue is one of exploitative work situations and exploitation of children.

Universal access to primary education has little meaning in circumstances where social barriers prevent meaningful participation. I am reminded of a meeting in a Dalit hamlet in Gujarat with parents and children from the Valmiki community. When I asked why their children did not go to school even though there was a fully functional primary school in the village, they pointed to three boys and two girls. Apparently these children were formally enrolled and had even attended school for five years, but they could barely read. Regular taunting by other children, the attitude of the teacher and their social status erected insurmountable barriers for such children.

The average income in the Valmiki household was fairly high, with at least one or two family members in government or municipal employment. I then asked what they did the whole day. The boys generally hung around the village or went out to the nearest town. The girls worked at home with their mothers. They wanted to go to school, to get out of the terrible cycle of caste discrimination, but the school was beyond their reach. Local private schools do not admit children of families engaged in manual scavenging; they do not want to offend their clientele.



So what options do such children have? Granted, the government must take responsibility and teachers who practice any form of discrimination should be booked under the atrocities act. Granted that progressive organisations must expose such practices and make sure every single child can participate in schooling with dignity. P. Sainath's series of articles from across the country confirm our worst suspicions – untouchability continues to be practiced in tea stalls, hotels, schools and health centres. Children from affected communities do not always have free access to education or even employment (other than their traditional caste employment).

How do we categorise such out-of-school children? What about the hundreds of children who drop out of school because they are not learning anything? How do we look at children who work morning and evening, and run to school in-between? How about seasonal absentees and children who help out with agricultural work? Where and how do we slot them?

There are obviously no easy answers to such complex questions. What we can do is to bridge the rhetorical divide between people and lobbies that are truly concerned about children, work and education. Peeling the layers of shrill rhetoric is the only way to get to the kernel; maybe then we can learn from each other in a search for solutions.

Original source: Ramachandran, V. (2003). Children, Work and Education. In V. Ramachandran, *Getting Children back to School*. New Delhi: Sage India.

