



**INTERNATIONAL LABOUR
ORGANIZATION**

(International Project on the
Elimination of Child Labour)



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THE ENFORCEMENT OFFICIALS' HANDBOOK ON CHILD LABOUR

ILO PROJECT
(Sensitisation and
Capacity Building)

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The training material embodies the Core Training Manual, Reference Material and the Target Group specific Handbooks and these three components need to be referred together.

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FOREWORD

- 1.0 Child Labour is a social menace, which has found its roots in society mainly due to the sheer lack of concern of many of its members. It has not been adequately realized that this scourge denies a large number of children the right to their childhood, good education, health and a quality of life, which they are entitled to. The ILO has focused its attention on the issue of child labour and to save children from the clutches of labour and instead persuade their parents to send them to school. This is just the sequel to a series of international conventions and regulations made there under. India has the largest number of child labourers in the world, which has been variously estimated from 11.28 million to 100 million. Unfortunately, Andhra Pradesh has the largest number of child labourers among the other states in the Indian sub-continent.
- 2.0 It is a fact that about 90% of these child labourers in our state are in rural areas with 9.6% engaged in cultivation of their own family land and about 4% being engaged in manufacturing, processing and servicing sectors.
- 3.0 Though poverty is quoted as a prime cause for the prevalence of child labour in our state, it actually begins in the mind. It has also, in many parts of the state, assumed social acceptability. Therefore, changing the attitudes of many individuals in various pivotal sections of society, by means of sensitisation would be an effective means of capacitating them to steer forward a new perspective across to their colleagues, peers and followers for achieving the goal of elimination of child labour.
- 4.0 The International Labour Organization has launched the International Programme for the Elimination of Child Labour (IPEC) and has chosen Andhra Pradesh for implementing a pilot action programme of sensitisation and capacity building, in collaboration with the Dr. Marri Channa Reddy Human Resource Development Institute (MCR HRDI), Andhra Pradesh. This programme covers around 20 influential sections of society, called 'target groups', through their sensitisation, capacity building and orientation programmes.
- 5.0 The Enforcement Officials are one of the most important target groups for this action programme on sensitization and capacity building. This handbook is designed to provide guidelines for the enforcement officials, who would

be the focal points for training other members on the issue of child labour. It provides information on what actions need to be undertaken by the enforcement officials in the case of violations of the Child Labour legislations. It also provides guidelines on raising awareness, developing sensitivity, initiating discussions and actions at various levels to combat the problem of child labour. It is hoped that this handbook would help the enforcement officials to gain a deeper understanding of child labour and to capacitate the participants to carry on this uncompromising combat against child labour forward.

- 6.0 This Handbook is meant for the limited purpose of supporting sensitisation and capacity building programmes and therefore does not claim to provide authentic or exhaustive information. It is hoped that this will prove to be a useful guide not only to the targeted groups but also to the general public interested in the task of elimination of child labour.
- 7.0 Any suggestions for improving the structure and contents of this book are sincerely welcome for the purpose of its subsequent editions.

**A. CHENGAPPA, I.A.S. (Retd.)
ADDL. DIRECTOR GENERAL - (TC)**

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1. An Introduction

This handbook is an integral part of the Core Training Manual and the Training Kit on Child Labour that has been developed by the ILO-IPEC-Andhra Pradesh State Based Project, Andhra Pradesh. The Core Training Manual, Training Kit and Handbooks have been developed with an aim to:

- ◆ Design and conduct trainings on Child Labour with relevant readings (Core Training Manual).
- ◆ Provide complete information on the sessions dealt within the Core Training Manual (Training Kit).
- ◆ Provide information related to actions to be undertaken by specific target - groups (Handbook).

THE HANDBOOK SERVES AS A PRACTICAL GUIDE FOR:

- ◆ Developing sensitivity by initiating discussions on child labour with enforcement officers.
- ◆ Providing guidance to repose responsibility and duty among the enforcement officers about the enforcement procedures in the elimination of child labour and to enable them to have a better understanding of the issues and the Acts.
- ◆ Understanding why enforcement officials should work on the issue of child labour.
- ◆ Providing a technical understanding of the procedures involved in enforcing child labour.
- ◆ Guidelines for initiating discussion on Child Labour.

This Handbook has been developed to help enforcement officers to possess a deeper and holistic understanding on the enforcement of child labour legislation. The enforcement officers would find this handbook as a useful reference tool to prosecute employers who have employed child labourers in their workplace.

**Guidelines for the
Trainers
to
Initiate Discussions
on
Child Labour**

2.1 BEFORE INITIATING DISCUSSIONS

A trainer should keep in mind the following details, before initiating the discussions:

- ◆ Be aware of the objectives of the training.
- ◆ Enquire from the organisers, as to what the trainees' level of experience and understanding on the issues of child labour is, prior to the training session.
- ◆ Know which language the trainees are more familiar with and which language they would usually prefer to use for discussions? If the training is imparted in the language in which the participants are conversant, it will be easy for the trainers to train effectively.
- ◆ There is a greater responsibility on the trainer to orient the trainees to learn. This task is the most difficult one for the trainer because the trainees are probably accustomed to doing physical work in the field and are not used to sitting and listening to the trainer in the training hall. So, the trainer should begin the session by focusing on the issues being discussed and by encouraging the trainees to ask questions, seek clarifications on their doubts, search for new information and share their experiences with the trainer.
- ◆ The trainer should also ascertain as to what age group the trainees belong to. The trainer should initiate talks on child labour, by keeping in view the age of the trainees and by taking benefit of their experiences.
- ◆ The trainer should study the issues in great depth so as to be prepared to satisfy the trainees' inquiries during the sessions.
- ◆ The trainer should prepare his session on the basis of the practical experiences so that the trainees are not only benefited by them but can also relate to them based on their own experiences.
- ◆ The trainer should prepare a self-contained write-up about his session, which is to be distributed among the trainees, and in turn, the trainees may use it in their fieldwork.
- ◆ The trainer should have adequate knowledge about the number of trainees, their standard of living and the place they come from.

- ◆ The trainer should reach the training venue much before the prescribed time. It is often observed that the trainers reach at the training venue late, due to which, the trainees get the impression that the trainer is not serious about his duty and responsibilities. As a result, the trainees do not take these sessions seriously and the very purpose of the training is lost.
- ◆ The trainer should enter the training premises completely free from all types of worries and perplexities, domestic or otherwise. The trainees can clearly observe the apparent worried looks on the trainer's face. This can create difficulty for the trainer while teaching the subject
- ◆ The trainer should keep all materials pertaining to the subject to be taught. It is also necessary to check whether any essential articles/materials have been left out. Often, the trainers insist on asking the organizers or the management for making the brief articles made available to them. This is not desirable and should be planned much prior to conducting the training sessions.
- ◆ The trainer's seat is usually allocated in advance by the organisers. The trainer should sit in the allocated place/in the chair so that the trainees who are already present there do not feel uncomfortable in any way.

2.2 DURING DISCUSSION

A trainer should keep in mind the following details during the course of the discussions:

- ◆ The greetings or courtesies offered by the trainees at the time of entering the training hall and should reciprocate accordingly so that the trainees do not take offence and are not hurt in any manner.
- ◆ After being introduced by the organizer, the trainer should talk to the organizer only on very essential matters. By indulging in any unnecessary talk, the trainers would give the opportunity for trainees to indulge in the same. Instead, the trainer should try to establish a good rapport with the trainees, which would ease the process of the discussions
- ◆ Before initiating discussions on the prescribed subject, the trainer should utilize the introductory sessions to try and understand the feelings of the trainees. In this situation, eye-to-eye contact between the trainer and trainees is of utmost importance. The greatest benefit accruing from such a position is that a rapport is established between the trainer and the trainees.
- ◆ After entering into the training hall, the trainer has two options before him/her. The trainer may initiate discussion while remaining seated or by standing up. If the trainer remains seated while speaking, he/she will not be able to draw the attention of the trainees. By speaking in the seated posture, the distance between the trainer and trainees will continue to remain, which the trainer will not be able to reduce even if he/she wants to. On the contrary if the trainer keeps standing, it would be easier to express his/her thoughts and feelings properly on a sensitive subject like child labour. By standing, the trainer can end the usual distance whenever he/she likes and also ensure that the trainees' attention is not diverted. In this position, both the trainer and the trainees find it more convenient to hear and understand each other well.
- ◆ A good trainer is regarded to be able to fulfill the expectations of the trainees. It is very necessary to know what the trainees want from the trainer. For this purpose, the trainer should not be the first to give any information to the trainees, instead he/she should read what the trainees have in their mind, gather information from them and create a proper atmosphere for stimulating an intense desire to gain maximum knowledge so that the desired

information may become available from amongst the trainees themselves. The trainer should not obstruct the flow of questions being asked and doubts being expressed by the trainees, but on the other hand should constantly encourage them to do so.

- ◆ When the trainees get motivated and wish to have more information, then the development of confidence and a positive approach towards the issue arises. The process of learning should be mutual and its complete burden should not be placed on the shoulders of the trainer.
- ◆ A training hall is usually provided with a black board. The trainer should utilise the blackboard so that the subject can be explained easily with more clarity. If the black board has not been provided, the trainer may write down the necessary issues on chart paper and display the same. By doing so, the trainer can simultaneously participate with the trainees and the process of mutual exchange of positive ideas between them will take place.
- ◆ The trainer should endeavour to clarify the doubts raised by the trainees and answer their questions. The trainer may remove the doubts of the trainees by showing transparencies on the overhead projector or by displaying information written on posters and charts.
- ◆ The trainer should not give more information to the trainees, which may be irrelevant to the discussions as this may create confusion and may divert the trainees' attention to other issues.
- ◆ The trainer should distribute the subject related material among the trainees.
- ◆ After showing the transparencies and discussing particular issues, the trainer should ask the trainees whether they have clearly understood the subject. If not, another attempt should be made to help them understand the subject.
- ◆ At the end of the session, all the trainees should be orally, asked whether they are fully satisfied with the subjects dealt with, the discussions held and whether all the points have been clearly understood.

2.3 AFTER THE DISCUSSION

A trainer should remember the following details at the end of the discussions:

- ◆ Distribute the subject related material to the trainees.
- ◆ Inform the trainees as to how and where they can contact the trainer once the session is over.
- ◆ Provide the addresses of institutions and individuals working in the field of child labour, to the trainees so that they may meet them and get a better perspective and draw inspiration from their activities.
- ◆ Provide an interactive sharing of ideas which paves the way towards social change.
- ◆ Create an atmosphere wherein the trainer and the trainees may continue to exchange or share ideas through correspondence or telephonic messages, even after the session is over.

2.4 VARIOUS APPROACHES TO DISCUSSION

For furthering any discussion, it is of utmost importance to know how the discussions are being conducted since the training is imparted to the trainees based on the experience and knowledge of the trainer, which is gained through books and by working in the field.

There are three approaches prevailing with regards to training:

First Approach

The trainer proceeds on the assumption that the trainee knows nothing about the subject and that only the trainer has full knowledge of the subject.

Second Approach

The trainer assumes that he himself knows nothing about the subject while the trainees possess all the knowledge.

Third Approach

The trainer is of the view that both the trainers as well as the trainees have experiences on the issues of child labour and can learn from each other.

For discussions on child labour, the third approach among the different approaches mentioned above is appropriate and can be of help in carrying out further discussion and deliberations meaningfully.

3. FREQUENTLY ASKED QUESTIONS ON CHILD LABOUR LAWS AND ENFORCEMENT

There can be a number of questions on child labour laws and enforcement. But frequently asked questions are on basic information, child labour legislation and enforcement are given here. They are:

1. **What are the objectives of the Child Labour (Prohibition and Regulation) Act, 1986?**

The Child Labour (Prohibition and Regulation) Act, 1986, has emerged from Article 24 of the Constitution of India. The objectives of this Act are:

- ◆ To ban the employment of children who are below 14 years of age, in 13 occupations and 57 processes.
- ◆ To obtain uniformity in the definition of the word 'Child' by defining it under the Child Labour (Prohibition & Regulation) Act, 1986.
- ◆ To lay down procedures to decide upon which occupations and places can be added to the Schedule that lists the prohibited occupations or processes in which children work in.
- ◆ To regulate the conditions of work in places where children are not prohibited from working.
- ◆ To lay down a penalty for employing children, in violation of the provisions of the Child Labour (Prohibition and Regulation) Act and other Acts which prohibit the employment of children.

2. **What does 'Establishment' refer to, under this Act?**

An "Establishment" includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other places of public amusement or entertainment.

3. **What is the definition of a 'child' under the Act?**

Section 2(ii) of the Act defines 'child' as a person who has not completed 14 years of age.

4. What does 'Appropriate Government' mean, under this Act?

Under Section 2(i) "Appropriate Government", in relation to an establishment under the control of the Central Government or a Railway Administration or a major part or a mine or an oil field, refers to the Central Government and in all other cases the State Government.

5. What is the composition of a 'family'?

Section 2(v) defines 'family', in relation to an occupier, as the individual, wife or husband, as the case may be, of such individual, and their children, brothers or sisters of such individual.

6. Who is an 'occupier' under the Act?

Section 2(vi) defines "occupier", in relation to an establishment or workshop, as the person who has the ultimate control over the affairs of the establishment or workshop.

7. Are schools included in the definition of 'Establishment', under the Child Labour (Prohibition and Regulation) Act, 1986?

By the definition of "Establishment", three kinds of schools will be exempted under this Act. They are:

- ◆ Schools established by the Government
- ◆ Schools receiving assistance from the Government
- ◆ Schools recognized by the Government

And in which any of the occupations or processes listed in parts A and B of the schedule are undertaken.

8. What establishments are covered under the Child Labour (P&R) Act, 1986?

All establishments as normally understood can be said to be covered under this Act but it emphasises on the following:

- ◆ A Shop
- ◆ A commercial establishment

- ◆ A workshop where any industrial process is undertaken, except a factory in which Section 67 of Factories Act, 1948 applies.
- ◆ A farm
- ◆ A residential hotel
- ◆ A restaurant
- ◆ An eating house (e.g. dhaba)
- ◆ A theatre
- ◆ A place of public amusement
- ◆ A place of public entertainment

9. Is it possible to add to the above list of establishments?

It is not possible to make additions to the above list of establishments unless the Act is amended by the Parliament.

10. Who is an 'Inspector' ,under the Act?

Section 17 of the Act provides that the Appropriate Government may appoint 'Inspectors' for the purpose of securing compliance with the provisions of the Act.

11. What is the extent of prohibition of employment of children under the Act?

No child shall be employed or permitted to work in any of the occupations set forth in part 'A' of the Schedule, or in any work wherein any of the processes set forth in part 'B' of the Schedule is undertaken.

11a. For how many hours can a child be made to work in any establishment under the regulated areas of work?

The total period for which the child is made to work cannot exceed six hours, including a one hour interval for taking rest, and the time spent in waiting for the work on any day. No child shall be permitted or required to work between 7pm and 8am.

The employer should grant the child a weekly holiday of one whole day.

11b. Can a child be made to work for more than three hours a day continuously?

No. Employers are not allowed to make a child work for a period exceeding three hours, at a stretch. After every three hours, the child is entitled to an interval of at least one hour, to take rest. No child shall be required or permitted to work on over time.

11c. Can a child worker be deputed to another establishment on the same day?

No child worker shall be required or permitted to work in any other establishment on the same day.

12. What provisions do the State Governments have to make for the health and safety of the child labourers?

It is the responsibility of the State Governments to make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

Such rules may provide that the employer must make arrangements for the following matters in the establishments in which children are employed. Some of them are as follows:

- (1) Cleanliness in the place of work and its freedom from nuisance
- (2) Disposal of wastes and effluents
- (3) Ventilation and temperature
- (4) Dust and fume
- (5) Artificial humidification
- (6) Lighting
- (7) Drinking water
- (8) Latrine and urinals
- (9) Spittoons
- (10) Fencing of machinery

- (11) Work at or near machinery in motion
- (12) Employment of children on dangerous machines
- (13) Instructions, training and supervision in relation to employment of children on dangerous machines
- (14) Device for cutting off power
- (15) Casing of new machinery
- (16) Floor, stairs and means of access
- (17) Pits, sumps, openings in floors, etc.
- (18) Excessive weights
- (19) Protection of eyes
- (20) Explosive or inflammable dust, gas etc.
- (21) Precautions in case of fire
- (22) Maintenance of buildings, and
- (23) Safety of buildings and machinery.

13. What are the obligations of the 'employer' under the Act?

Under the Act, the obligations of the employer are:

- (a) Not to employ a child for more than three hours a day at a stretch.
- (b) To provide for an interval of at least one hour after a period of three hours of work.
- (c) Not to employ a child for six hours in a day at a stretch, including intervals and time consumed waiting for work to be deployed on any day.
- (d) Not to make children work between 7p.m. and 8p.m.
- (e) Not to make children work in any other establishment on the same day.
- (f) To observe a weekly holiday and display the same in a notice permanently exhibited at a conspicuous place in the establishment.

- (g) To send to the Inspector, within 30 days of the employment of a child, a written notice containing the name and situation of the establishment, the name of the person in actual management of the establishment, the address to which communications relating to the establishment should be sent and the nature of the occupation or processes carried on in the establishment. The period of 30 days has to be counted from the date when the Act is made applicable to the establishment.
- (h) To maintain a register containing the name and date of birth of every person employed or permitted to work, hours and periods of work, intervals of rest to which he/she is entitled to, nature of work, and any such particulars.
- (i) To make this register available for inspection to the Inspector, at all times, during working hours or when work is being carried on in the establishment.
- (j) To display an abstract of Section 3 (prohibition of employment of children in certain occupations and processes) and Section 14 (penalties) in a conspicuous place in the establishment, both in the English language and in a local language,
- (k) To ensure that a certificate confirming the age of every child is obtained from the prescribed medical authority, before engaging such a child.

14. What are the '*offences*' under the Act?

The following acts amount to an offence under the Act:

- (a) Employing any child or permitting any child to work in violation of the provisions of Section 3 (prohibition of employment of children in 13 occupations and 51 processes);
- (b) If a notice is not sent to the Inspector as to the particulars of the establishment as required by Section 9, other than those in which processes are carried with the aid of a family or any school, which is assisted or recognised by the Government;
- (c) If a register, containing particulars of child labour employed in an establishment is not maintained, as required by Section 11 or if it is not made available to the Inspector for inspection.

- (d) If a notice containing an abstract of Section 3 and 14 as required by Section 12 is not displayed at appropriate places, as required;
- (e) Failing to comply with or violating any other provision that has been prescribed by this Act or the rules made there under;
- (f) Breach of Section 67 (prohibition of employment of children below 14 years) of the Factories Act, 1948;
- (g) Contravening Section 40 (prohibition of employment of children below 18 years) of the Mines Act, 1952;
- (h) Contravening Section 109 (prohibition of employment of children below 15 years) of Merchant Shipping Act, 1959; and
- (i) Contravening Section 21 (prohibition of employment of children below 14 years) of the Motor Transport Workers Act, 1961.

15. What is the extent of punishment provided under the Act?

The punishment for the violation of Section 3 of the Act, is imprisonment for a minimum period of three months, which may extend to one year or a fine of Rs. 10,000/-, which may extend to Rs. 20,000/-, or both.

In respect of other offences, the punishment is imprisonment up to one month or fine up to Rs. 10,000/- or both.

16. Who can take action against an offence under the Act?

- (a) Any person;
- (b) A Police officer; and
- (c) Inspector appointed under the Act.

17. In which Court can an offender under the Child Labour (P&R) Act, 1986 be prosecuted?

A complaint about commission of an offence under this Act may be filed in any court of competent jurisdiction but no court less than that of a Metropolitan Magistrate 1st Class shall try an offence under this Act.

18. What rules have been made under the Child Labour (P&R) Act, 1986?

The rules have been made on the following subjects:

- ◆ Constitution of the Child Labour Technical Advisory Committee,
- ◆ Number of hours that a child may be required or permitted to work under Section 7(1),
- ◆ Grant of certificate of age in respect of young persons in employment or seeking employment, by medical authorities who may issue such a certificate,
- ◆ The form of such certificates and the charges for such certificates may be issued, and the particulars which have to be recorded in the register to be maintained under Section 11 of the Act.

19. What is to be done when the age of a child is under dispute?

If the only source to certify the age of a child is the employer, the parent or the child him/herself, then there is a need to ensure the authenticity of this information. In such a case, it is the duty of the Inspector to refer the child to the prescribed medical authority with a request to decide upon the correct age of the child. This is a statutory obligation of the Inspector.

20. What is the meaning of 'Week' under the Act?

It is a period of seven days (7x24 hours), which begins at 12p.m. on Saturday night.

21. Can the Inspector rely upon the external looks or other features of the "child" to ascertain his/her age?

It is always safe and certain to insist upon the production of a certificate issued by the prescribed medical authority to resolve the question of the age of a child. If the child has a school leaving certificate showing his date of birth or if the child has a birth certificate issued by the Registrar of births and deaths or the Municipal authorities, the same could be relied upon, provided it is ensured that the certificate belongs to the child in question and not to any other child.

22. Is the employer required to maintain his register in any particular form?

Yes, every occupier of an establishment has to maintain a register containing details of the children employed or permitted to work in Form 'A', as appended to the Child Labour (P&R) Rules, 1988.

23. If there is a breach of provision of other Acts prohibiting child labour, what punishment has to be meted to the violator?

Section 14 of the Child Labour (P&R) Act, 1986, provides for certain penalties in case of a violation of the provisions of this act. The penalty so provided will also apply for violations, in relation to child labour offences, made under other Acts such as Factories Act, 1948, Mines Act, 1952, Merchant Shipping Act, 1958 and Motor Transport Workers Act, 1961.

24. Who is a 'public servant' under Section 21 of the Indian Penal Code, 1860?

The words '*public servant*' denotes a person who is either:

- ◆ In the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government; or
- ◆ In the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

4. ROLE OF ENFORCEMENT MACHINERY

The Prohibition and Regulation of Child Labour, so far as the Child Labour (P & R) Act, 1986 is concerned, rests considerably in the hands of those who are responsible for the implementation of the provisions of the Act. The Enforcement Machinery set up under the Act, is contained in the provisions of the Act. While the Central Government has the major role of ensuring the regulation of Child Labour, it is not possible for the Central Government to examine details of every case of violation, under the Act.

In fact, it is the role of the Inspectors appointed under Section 17 of the Act, who are largely responsible for securing compliance with the provisions of the Act. The importance of the position of the Inspector is also confirmed by the fact that they are deemed to be 'public servants' within the meaning of Section 21 of the Indian Penal Code and that they are entitled to privileges that accrue to public servants.

1. What are the consequences of improper implementation of Child Labour (Prohibition and Regulation) Act, 1986?

If the Child Labour (Prohibition and Regulation) Act is not properly implemented, the following results will ensue:

- ◆ The Objective of prohibiting children from being employed in certain occupations will not be achieved.
- ◆ There will be no check on the working conditions of the children in permitted employments.
- ◆ Children will be exposed to the hazards of exploitation at the hands of their employers.
- ◆ Children would be made to work, irrespective of the duration of work.
- ◆ There would be no weekly holidays and children may be made to work overtime or at night also.
- ◆ They may not be given any interval for rest.

- ◆ Certain requirements for the health, protection and safety of children employed in non-hazardous establishments will not be adhered to.
- ◆ The extent of penalties in the Child Labour (P & R) Act, as well as other legislations, will become meaningless.
- ◆ There will be no enforcement of law, and employers will not be prosecuted for breaching the provisions of the Act.
- ◆ Ultimately, the issue of child labour will not be tackled in the country and the Government would be embarrassed at the hands of the international bodies for not fulfilling the promises of eliminating child labour, contained in international treaties of which they are signatories.
- ◆ Those who gain by child labour will thrive and prosper.
- ◆ The Country will be deprived of efficient and productive human resources in near future. This means less national welfare. The Country will remain in the vicious circle of poverty.

2. What is the role of the Inspector precisely?

The Inspector plays a multi-tasking role of an educator, reformer and prosecutor.

It is largely believed that the art of persuasion rather than coercion should be employed and a strict imposition of the law may be avoided. This is explained by the fact that labour laws are essentially social laws and have much to do with human relationships and behaviour.

Therefore, it is essential for the Inspector to act democratically and his/her actions and decisions should not be based on presumptions but on good legal evidence. He/she has to be tactful while carrying out inspection under the Act and also has to take care not to jeopardize his/her own position or that of the government. The Inspector has to be familiar with the provisions of the Act and its rules. In preparation of the inspection report, he must weigh the pros and cons of every issue. He also has a social role and therefore, must find opportunities to rehabilitate child labourers from hazardous workplaces, exploitative employers, and situations, which are detrimental to their overall wellbeing.

4.1 ENFORCEMENT PROCEDURES

The institutions concerned with the enforcement of the Child Labour (Prohibition & Regulation) Act are as follows:

- ◆ The Central Government (Ministry of Labour)
- ◆ The State Government (Labour Department, factory Department)
- ◆ Inspectors appointed under Section 17 of the Act.
- ◆ Child Labour Technical Advisory Committee set up under Section 5 of the Act
- ◆ Trade Unions
- ◆ Various voluntary and non-governmental organisations engaged in the task of elimination of child labour
- ◆ Police authorities
- ◆ Judiciary
- ◆ Media

It is as a result of the collective efforts made by the above agencies that can contribute to the progressive and successful elimination of child labour. It is, also the intense cooperation amongst the above agencies that can synchronise positive results in the direction of eliminating child labour. Even if the task is stupendous, a process of cooperative dependence can achieve the target systematically. If the objectives of the Act are well comprehended, child labour would gradually be erased from the society.

Penalties under the Child Labour Act for violation of Section 3

Under this provision, if any employer or occupier of an establishment or workshop is found to have engaged child labour, he/she would be punishable with imprisonment for a term, which shall not be for less than 3 months which may be extended to one year or with fine which shall not be less than Rs. 10,000/- but may be extended to Rs. 20000/- or with both.

For repeated violation of Section 3

If a person commits an offence under Section 3 and is convicted and commits a similar offence afterwards, he shall be punishable with imprisonment for a term, which shall not be less than three months but may extend to two years.

For breach of other provisions

If the employer or occupier of an establishment or workshop fails to give notice as required by section 9 or fails to maintain register under Section 11 or fails to display notice as required by section 12 or fails to comply with or Rules made there under, he shall be punishable with simple imprisonment which may extended to one month or with fine Rs. 10,000/- or with both.

Penalty for offences committed under other Labour Acts

In certain Acts, provisions such as Section 67 of the Factories Act 1948, Section 40 of the Mines Act, 1952, Section 109 of the Merchant Shipping Act, 1958 and Section 21 of the Motor Transport Workers Act 1961, there is a provision that no young person or child shall be engaged. These Acts contain the punishment for breach of the said provisions. The Child Labour (P&R) Act, 1986 has superceded penal provision of those acts and has laid down that the punishment meted out to the offenders under these various Acts shall be the same as provided under section 14 of the Child Labour (P&R) Act.

Procedures to be followed to process a complaint

- ◆ Whenever it is noticed that there is a violation of the Child Labour Act, a complaint can be lodged by the following persons:
 - (a) Any person; (b) Police Officer or Inspector
- ◆ The complaint can be filed directly with the Metropolitan Magistrate of the area in which the violation has taken place.
- ◆ The complaint has to be filed immediately after a violation of the Act is noticed and in any case not beyond 6 months from the commission of the offence. A complaint filed after 6 months of the commission of the offence, has to have cogent evidence to satisfy the court as to why the complaint could not be filed within 6 months of the commission of the offence.

- ◆ The Inspector or Police Officer has to obtain due authorization from their department for filing the complaint.
- ◆ The complaint has to be supported by various documents that may be in the possession of the complainant. A list of the original documents can be filed along with the complaint.
- ◆ If the complaint is filed in a representative capacity, the same has to be stated in the complaint.
- ◆ The complaint must state the facts in the order in which they have occurred till the commission of the offence and therefore. The complainant must enclose a list of witnesses whom he intends to call for tendering evidence.
- ◆ The Court fee, wherever applicable in the particular State, will have to be affixed on the complaint.
- ◆ The complainant must have his/her statement recorded with the Magistrate immediately after filing the complaint and ensure that the notice to the accused is sent by court.
- ◆ During the proceedings before the Magistrate the complainant must be cooperative and assist the court in the task of inquiry and trial.
- ◆ At the time of trial of the complaint case the complainant should, as far as possible, bring the witnesses and furnish the court with the original record of documents, which constitutes the basis of his/her complaint.
- ◆ After the magistrate decides that the accused is found guilty and convicted, the complainant (if his/her complaint has been accepted) should publicly declare the decision of conviction pronounced by the Magistrate. This would deter other employers from employing children at their workplaces.
- ◆ If the Court has imposed a fine on the accused and if there is a default in the payment of the fine, then it is the responsibility of the court to issue warrants of arrest and to ensure that the accused is confined to prison.

4.2 CHECK-LIST OF FACTS BEFORE FILING COMPLAINTS

The Inspector or other persons may use the following checklist of facts before filing a complaint with respect to a violation of the Child labour Act:

- (1) Name of the establishment
- (2) Address of the establishment (If possible with a location map)
- (3) Name and address of the occupier or his agent in the establishment
- (4) Whether the establishment is a factory, workshop; major port, railway, oil field, a building work site or mine.
- (5) Name of the occupier who has the ultimate control over the affairs of the establishment
- (6) Total number and kind of workers employed in the establishment at the time of inspection, including particulars of child labour in detail.
- (7) Whether sanction for filing complaints is necessary and has been obtained?
- (8) Whether any preliminary inquiry was made, if so, what is the report?
- (9) What are the contents of the Inspection Report, if any?
- (10) Does the evidence support the legal violation ?
- (11) Has the State Legal Department/Legal Cell been consulted?
- (12) Date and time of inspection

5. PROCEDURES FOR INSPECTION OF CHILD LABOUR IN THE WORK PLACE

A physical inspection of the establishment or industry

This is to ascertain:

- ◆ Whether there has been a breach of the Child Labour Act or other labour laws;
- ◆ Whether the legal requirements as to the safety and welfare of child labour are being followed or not; and
- ◆ Whether action has been taken against the person/people responsible for violation of the law.

Preparation of Inspection Report

- ◆ A report has to be prepared on the basis of the facts and figures collected at the inspection site.
- ◆ The report must give a systemic account of the engagement of child labour in the establishment.
- ◆ It must contain the findings of the Inspection, about the nature of compliance/breach of the legal provisions, factual particulars about the children employed, or the working conditions of child labour.

Planning for Inspection

It is necessary for the Inspector to plan his inspection. It would be advantageous for inspectors to collect some basic facts about the size and location of the establishment and particulars about the strength of employees, the background of the employer, the commercial environment, etc.

While planning the visit, the Inspector has to consider the following:

- (a) Inspection policies devised by the State Government or Central Government.
- (b) Strategies that have to be adopted to achieve the objectives of the inspection.

- (c) Selecting from alternative courses of action to be undertaken in order to attain the objective of the inspection.
- (d) Familiarizing with the kinds of problems that are faced during the course of his inspection.
- (e) Keeping plans as flexible as possible and having the option to review them, whenever necessary.

Considerations during Inspection for Effective Prosecution

- (1) As soon as the Inspector receives information about the commission of an offence, involving breach of the Child labour law, the Inspector shall record the same in writing in his personal diary and sign the same.
- (2) The Inspector may inform his superiors, if possible, and proceed to the site of the offence for investigation.
- (3) He/she may inform the police station nearest to the site of offence and request for the presence of the police during the process of investigation.
- (4) He/she may also inform the prescribed medical authority to accompany him/her, if it becomes necessary to carry out medical examinations at the site.
- (5) At the site of the offence, the Inspector shall examine the facts and circumstances of the violation of the Child labour (P&R) Act or the violations of any provisions relating to various Child labour Acts, for which he/she is the Inspector.
- (6) Statements should be obtained from the occupier of the establishment and also of the witnesses present. A recorded statement from the witnesses should be obtained along with their signatures.
- (7) Where the age of the child found in the establishment has to be verified by the medical authority, the certificate/report of such medical authority shall be obtained then and there.
- (8) The inspector may search and take into his custody any document or relevant material, which supports the case of the prosecution. If necessary, he/she may draw up a 'panchnama' giving details of the documents and other materials seized and given thereof to the occupier.

- (9) If the occupier prevents the inspector from making investigations or from entering the premises, he shall take the help of the police officer and record a finding to that effect. He may also, after prior notice, demand his entry into the factory premises even if the doors and windows have to be broken.
- (10) Considering the nature of punishment in terms of the quantum of fine and a term of imprisonment upto one year, the period of limitation within which the complaint can be filed is normally one year from the date of commencement of offence. The court takes cognizance of the offence, if a complaint is filed within one year.
- (11) Wherever possible, photographs should be taken.

Preparation of the Inspection Report

- ◆ It is up to the Inspector to carry with him formats of the Inspection Report so that he can conveniently fill them up at the inspection site based on the facts and figures, which have been collected.
- ◆ Alternatively, he may collect his facts and figures on his note-sheets and prepare the inspection report on his return from the site of inspection.
- ◆ Since the further course of action to be decided by the Government (usually the Labour Department) will depend upon the contents of the inspection report, it is essential that the inspection report be prepared with adequate thought and care.
- ◆ A copy of the inspection report has also to be given to the employer for his comments, if any.
- ◆ This eliminates the possibility of the employer alleging later that the Labour Department had proceeded against his discretion
- ◆ If the employer gives any comments on the Inspection Report, the Department can consider them in deciding further action on the report.

At the Inspection Site

1. The inspector should act democratically and reasonably.
2. The inspector must ensure that he/she is firm without appearing to be

- aggressive. The language used while conducting the inspection should be controlled and unprovocative.
3. The employer would do everything possible to frustrate the inspection. A friendly disposition would work better in most circumstances.
 4. The inspector will not be able to assess the child employees who may be driven away by the employer on being informed about the inspection. For this, the inspector has to have good communication skills.
 5. Where disputes about the age of the child are raised, the Inspector should act strictly in accordance with the legal provisions and have each case medically examined by the proper authority.
 6. The Inspector should be able to interact with the children employed in an establishment through patronizing gestures in order to elicit the necessary information from them. Resistance from the employer or his agents or servants should invariably be met legally with the help of the police.
 7. The Inspector may require the production of any register; rosters or other documents relating to the employment of children and examine such documents in detail.
 8. The Inspector may also take on-the-spot evidence of any person, without involving any degree of compulsion or force in answering questions or giving evidence.
 9. Photographs, sketches, samples and measures or records, may be taken so as to undertake the inquiry. Extracts from registers and copies of other vital documents can be made relevant for supplementing the inspection.
 10. The employers, agents or any other person found in charge of the establishment or any person whom the inspector reasonably believes to be or to have been an employee in that establishment, may be questioned by the Inspector.

Evidence to be collected at the site

Many inspectors have very little idea about the nature of evidence to be collected at and during the course of the inspection. Quite often prosecutions

launched by the Labour Department do not succeed for want of proper evidence. Therefore, the Inspector has to concentrate on what evidence would be relevant to ensure that the charges against the employers are established with supporting evidence.

The offences for which a person may be prosecuted with are:

- (a) Engagement of child labour in violation of the legal provisions, and,
- (b) Non-observance of mandatory working conditions in respect of Child Labour in non-hazardous establishments.

Therefore, evidence to be collected will establish the above facts and may be as follows:

1. Statements of occupier or other witnesses (panchnama) recorded at the time of inspection when child labour was found to be employed.
2. Records / documents (or their photocopies) that may have been seized at the time of inspection.
3. Details of child labour engaged together with medical certificates, tokens, or other documents / registers pertaining to the establishment.
4. Inspection report prepared at the site.
5. Any correspondence that was exchanged with the employer.
6. Any evidence pertaining to the conduct of the occupier or his agents.
7. Evidence of the absence of appropriate working conditions that should have existed.
8. Evidence of any relationship existing between the employer and the family of the child labourer.
9. Age certificates of the child labourer, if available.

The inspector should, as far as possible, take into account first hand direct evidences. Evidence relevant to the complaint should be collected, and statements and confessions should be documented exhaustively, including the signatures of the persons, date, time etc. While questioning the child labourers, they should be asked if they were tutored by their employers to deny their actual age or other information regarding their status of employment. The facts about the workshop being a school or training institute should be verified.

6. Some Solutions for Enforcing the Child Labour Act

To tackle the major problems that come in the way of enforcement of Child Labour Act, the following suggestions are worth trying: -

- (a) The '*appropriate governments*' may bring out useful and informative literature to raise awareness about the provisions of the Child Labour Act. Many NGOs who have tried this in other areas have had some successes.
- (b) The '*appropriate governments*' may revamp the child related cells set up by them to monitor and oversee the regulation of the Child labour Act.
- (c) Exclusive Courts may be set up to conduct trials on the violation of Child Labour Act, in all parts of the country.
- (d) The press and media could be invited to participate in the elimination of child labour by publicizing convictions made under the Act and showing in poor light the defaulters of the Child labour Act.
- (e) Appropriate institutions, voluntary organisations and the public at large, may be sensitized on the Child Labour Act.
- (f) Practical training of inspectors and other officials as well as the representatives of voluntary organisations for the elimination of child labour should be vigorously pursued. In such training classes, it would be more appropriate to train one in the methodology of prosecution and the care and tact involved in the prosecution.
- (g) Inspectors responsible for enforcement of Child Labour Act should be given incentives, special rewards and recognition for any job done well by them. This would provide impetus to them to always perform better.
- (h) It should be binding on the court to decide the cases within specified time limits.
- (i) Regular surveys in child labour prone industry should be done.

PROFORMA – I

Show Cause notice to defaulter enclosing Inspection Report

By Hand/Registered A.D.

Government of

Ministry/Department of Labour

Office of the Labour Inspector/Asstt. Labour

Commissioner/Labour Enforcement Officer (C)/

Labour Officer,

No.

Time of Inspection

Dated, the.....

To

Subject: Inspection of the Establishment of under the Child Labour (Prohibition & Regulation) Act, 1986 and Child Labour (P & R) Rules, 1988

This is to inform you that during my inspection of your above establishment aton(date) at (time) breaches of the above Act and the Rules, mentioned in the enclosed inspection report have been noticed. A copy of the Inspection Report was received /refused by you.

You are directed to rectify the irregularities immediately and send your comments on complying, with the report, within a fortnight, directly to the Regional Labour Commissioner Endorsing a copy thereof to me failing which legal action by way of prosecution will be taken against you/your As the irregularities were also observed in the past you are directed to show cause within ten days direct to the Regional Labour Commissioner endorsing a copy thereof to me, as contravention noted in the Inspection Report.

Labour Inspector/Labour Enforcement Officer (C)

Labour Officer/Assistant Labour Commissioner (C)

Encl.: Inspection Report

PROFORMA – II

Inspection Report - A

Particulars of the establishment inspected

1. Name and address of the establishment.
2. Name and address of the Occupier/Employer/Partners/Directors
3. Name and address of the owner of the establishment.
(If the owner is a company, state the name and address of its registered office. In the case of a firm, society or corporation, state the name and address of its principal office).
4. (i) Whether the establishment is a factory, workshop, mine, major port, railway, oil field, a building work, or any other.
(ii) Nature of work in which child labour is employed.
5. In the case of a workshop, factory or mine.
(a) Date of Commencement.....
(b) Date of its likely completion.....
6. Total number of workers employed in the establishment at the time of inspection
7. Date & time of inspection.....
8. Nature and type of industry.....
(a) Whether falls under the purview of part A of schedule or part B of schedule of the above Act

Interview of employees/workers at the time of Inspection

1. Name of the Worker
2. Designation3. Working Since.....
4. Residential Address
5. Wages
6. Signature of worker or L.H.T.I. of worker

Interview of Child Workers

- 1. Full name of the Child Worker.....
 - 2. Full name of Father/Guardian.....
 - 3. Residential Address.....
 - 4. Age of the Child.....
 - 5. Designation (Nature of work).....
 - 6. Length of Service.....
 - 7. Working Hrs.....
 - 8. Wages received.....
 - 9. Signature or L.H.T.I. of child worker
- Witnesses 1.
2.

7. (i) The break-up of the above figure is:

Children above 14 years	Children below 14 years	Total
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Males

Females

(ii) The occupation/the process in which the children below the age of 14 years were employed.

S. No.	Name	Father Name	Age at the time of inspection	Occupation
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8. Name of the employer or his representative (with designation) present at the time of Inspection.
9. Particulars of the registers/records checked during the inspection.

Sr. No.	Register/other record checked	Period for which checked	Approximate No. of Entries checked in the case of register
---------	-------------------------------	--------------------------	--

A copy of Inspection report received and breach of Section 3 of the Child Labour (P&R) Act, 1986 stated there noted.

Name (in block letters)
Signature of the Occupier/Employer
or his representative with date and address

Signature of the witnesses

1. (Shri)

S/o.....

(Signature with date)

R/o.....

2. (Shri.....)

S/o.....

(Signature with date)

R/o.....

Note: If the Inspector is unable to serve a copy of the Inspection Report on the occupier or the occupier refuses to receive and sign the Report, the same may be sent later with a covering letter by register A/D.

The following format of Inspection Report may be used in the case of establishments other than those falling under Section 3 of the Act.

PROFORMA III

Inspection Report - B

Particulars of the establishment inspected

1. Name and address of the establishment.
2. Name and address of the occupier/employer/partners/directors.
3. Name and address of the owner of the establishment (If the owner is a company, state the name and address of its registered office. In the case of firm, society or corporation, state the name and address of its principal office).
4. Whether the establishment is a shop, factory, workshop, farm, hotel, eating house, theatre, etc.
5. Nature of work/business carried on in the establishment.
6. Total number of workers employed in the establishment at the time of inspection
.....
7. The break-up of the above figure is:

	Children above 14 years	Children below 14 years	Total
--	----------------------------	----------------------------	-------

Males

Females

8. Name and designation/status of the representatives of the employers who was/were present at the time of Inspection.
9. Date & Time of Inspection.
10. Particulars of registers and records checked and signed during the inspection.

S. No.	Register/other document checked	Period for which checked
--------	------------------------------------	--------------------------

11. (a) The following children were required/permitted to work in excess of the hours prescribed for the establishment in breach of Section 7(1) of the Act.

S. No.	Name	Father's Name	Section/ Deptt.	Designation token No.	Hours prescribed by rules	Hours actually worked
--------	------	---------------	-----------------	-----------------------	---------------------------	-----------------------

- (b) The following children were employed for more than three hours continuously and not given rest for one hour.

S. No.	Name	Father's Name	Section/ Deptt.	Designation token No.	Dates on which rest not given	Declared/ notified period of rest
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- (c) The following children whose period of work including interval for rest and time spent on waiting, is spread over more than six hours in breach of Section 7(3).

S. No.	Name	Father's Name	Section/ Deptt.	Designation token No.	Hours period of spread over
--------	------	---------------	-----------------	-----------------------	-----------------------------

- (d) The following children were employed/permitted to work between 7 p.m. and 8 a.m. in breach of Section 7(4) of the Act.

S. No.	Name	Father's Name	Section/ Deptt.	Designation token No.	Nights on which worked
--------	------	---------------	-----------------	-----------------------	------------------------

(In this case inspection has to be done after 7 p.m. and before 8 a.m.)

- (e) The following children were required/permitted to work in the establishment though they had already worked in another establishment which is in breach of Section 7(6) of the Act.

S.No.	Name	Father's Name	Section/ Deptt.	Designation token No.	Name of the other establishment in which the child worked	Dates on which the child worked
-------	------	---------------	-----------------	-----------------------	---	---------------------------------

(f) The following children were not allowed weekly holiday on dates shown below in breach of Section 8 of the Act.

S. No.	Full Name	Father's Name	Section/ Deptt.	Designation Token No.	Designation Token No.	Dates on which holiday not given
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(g) The following days specified as weekly holidays were altered more than once in three months in breach of Section 8 of the Act.

Note: Inspection in respect of item 11(a) should only be done after rules have been notified specifying the hours of work under Section 7(1).

2. Non Display of notices

- A notice specifying the day of holiday was not exhibited in a conspicuous place in the establishment in breach of Section 8 of the Act.
- Abstracts of Section 3 and 14 of the Act were not displayed in English/local language as required by Section 12 of the Act.

3. No Notices to inspector

Though the establishment had engaged children below the age of 14 years, a written notice containing the following particulars as required by Section 9(1) of the Act, was not sent to the Inspector, which amounts to breach of Section 9(2) of the Act.

- the name and situation of the establishment;
- the name of the person in actual management of the establishment;
- address to which communication relating to the establishment should be sent; and,
- the nature of the occupation or process carried on in the establishment.

4. Certificate of age

The certificate of age of the following young persons from the appropriate medical authority were not produced before me in Form 'B' as required by Rule 17(1) of the Child Labour (Prohibition and Regulation) Rules, 1988

S. No.	Name	Parent's Name	Section/ Deptt.	Designation token No.	Dates on which Worked

5. Non Maintenance of Registers

A register in respect of the children employed/permitted to work was;

- (a) not maintained at all; or
- (b) maintained but the following columns were missing; or
- (c) maintained but the following columns had been left blank.

6. Non Maintenance of Health and Safety Requirements

The following facilities relating to health and safety, provision for which is required to be made under Section 13, read with rule had not been provided to the young persons employed/ permitted to work in the establishment;

(State here the facilities not provided)

Labour Inspector

Labour Enforcement Officer

Labour Officer

A copy of the Inspection report received and the breaches of Child Labour (Prohibition and Regulation) Act, 1986 stated therein noted.

Name (in block letters)

Signature of the Occupier/Employer or his representative with date and address

Signature of the Witnesses

1. (Shri.....)

S/o

(Signature & date)

R/o

2. (Shri.....)

S/o

(Signature & Date)

R/o

Note:..... If the Inspector is unable to serve a copy of the Inspection Report on the occupier or the occupier refuses to receive and sign the report, the same may be sent later with a covering letter by registered.

6.1 Andhra Pradesh Child Labour (Prohibition and Regulation) Rules 1995

LABOUR EMPLOYMENT, TRAINING AND FACTORIES DEPARTMENT (LAB IV)

FRAMING OF RULES FOR HEALTH AND SAFETY OF CHILDREN UNDER SECTION 13 (1) OF THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (CENTRAL ACT 61 OF 1986) FINAL NOTIFICATION.

G.O. MS NO. 38, LABOUR EMPLOYMENT TRAINING AND FACTORIES (LAB-IV)

18th October, 1995

In exercise of the powers conferred by sub-section (1) of section 13 read with sub-section (1) of section 18 of the (Central Act No. 61 of 1986), the Governor of Andhra Pradesh hereby makes the following rules for health and safety of the Children employed or permitted to work in any establishment or class of establishments, the same have been previously published as required under sub-section 18 of the Child Labour (Prohibition and Regulation) Act, 1986.

1. Short title and commencement:-

- (1) These rules may be called the Andhra Pradesh Child Labour (Prohibition and Regulation) Rules, 1995.
- (2) They shall come into force at once.

2. Definitions: -

In these rules unless the context otherwise requires: -

- (a) 'Act' means the child labour (Prohibition and Regulation) Act, 1986 (Central Act 61 of 1986).
- (b) 'Child Labour' means every child who has not completed his fourteenth year of age and employed for wages on piece rate, weekly, daily, monthly basis or on contract basis.
- (c) 'Government' means the Government of Andhra Pradesh,
- (d) 'Section' means a section of the Act.

- (e) *'Form'* means a form appended to these Rules.
- (f) *'Register'* means the register required to be maintained under Section 11 of the Act.
- (g) *'Inspector'* means an inspector appointed under section 17 of the Act.
- (h) *'Establishment'* means an establishment as defined in section 2(iv) of the Act.
- (i) *'Local Authority'* means the Commissioner in the case of an area within the limits of a municipality or corporation, the Executive officer in the case of an area within the jurisdiction of a Panchayat and the President of district board in the case of any other area.
- (j) *'Occupier'* means occupier as defined in section 2 (VI) or the Act.
- (k) *'Employer'* means an employer as defined in Section 2 of the Plantation Labour Act, 1951 and in section 2 of the Andhra Pradesh Shops and Establishments Act, 1988 (Act No. 20 of 1988)

3. Cleanliness in the place of work and its freedom from nuisance:

- (1) The work site or place where child labour is engaged for work shall be swept, washed and dried atleast once in a day, to keep it adequately clean and free from slippery agents or substances.
- (2) Where the floor of the work site is likely to become wet in the course of any work process, effective means of drainage shall be provided and maintained.
- (3) No rubbish, filth or debris shall be allowed to accumulate or remain on or near a work site, which results in the accumulation of effluents in the work area.

4. Disposal of wastes and effluents:

- (1) Prior approval needs to be obtained from the local authority, to ensure that the drainage system, at the work site where the child is engaged, is connected to the public sewerage system.
- (2) In the case of a work site situated in a place where no public sewerage system exists, prior approval of the arrangements made for the disposal

of waste effluents should be obtained from the Public Health Authorities or the Local Authority or such authority as the State Government may appointment on its behalf.

5. Ventilation and temperature:

Provisions shall be made to ensure adequate ventilation of fresh air and the regulation of room temperature in the work place where child labour is engaged, so that reasonable conditions of comfort are maintained and the likelihood of the incidence of injuries at work is minimized.

6. Lighting

- (1) Every work place shall be provided and maintained with sufficient and suitable lighting, natural or artificial or both.
- (2) An efficient portable electric battery or torch with an efficiently protected bulb shall be available in a suitable place for emergency lighting.

7. Drinking Water

The drinking water provided at the work site shall be supplied:

- (i) From taps connected with public water supply system; or
- (ii) From any other source approved in writing by the Health Officer
- (iii) If drinking water is not supplied by the above-mentioned source, it shall be kept in suitable vessels and renewed atleast daily. All practicable steps shall be taken to avoid contamination and to ensure that the vessels are kept clean.

8. Latrines and urinals

- (1) Latrines and Urinals shall be provided separately for girls and boys and shall be situated so as to be conveniently accessible for children at every work site. The walls, ceilings and partitions of every latrine and urinal shall be made of glazed tiles, if not they should be white washed once in three months.
- (2) All latrines and urinals provided shall be adequately lighted, ventilated and at all times maintained in clean and sanitary conditions. Every

latrine shall be well partitioned and closed with proper doors and fastenings, so as to ensure privacy.

9. Spittoons

The spittoons shall be either of the following types:

- (1) A galvanized iron container with a conical funnel shaped cover, which should always contain a layer of suitable disinfectant liquid.
- (2) A container filled with cleaned sand and covered with a layer of bleaching powder.
- (3) The spittoons mentioned above, under sub-rule (1) and (2), should be emptied, cleaned and disinfected at least once every day.

10. Lifting Excessive weight

No child shall be permitted to lift, carry or move by hand or head any weight exceeding the maximum limit of 10 kilograms.

11. Protection of eyes

Effective screens or suitable goggles shall be provided for the protection of children in any work site where they are employed in or in the vicinity of processes which involves the risk of injury to the eyes from particles or fragments thrown off during the process or because of exposure to excessive light.

12. Explosive or Inflammable gas etc.

Every work site where child workers are employed shall be free from any inflammable substance or explosive gas dust etc.

13. Precaution in case of fire

- (1) Every work site shall be provided with fire escapes and these exits are so positioned that each child will have reasonable, fair and unobstructed passage from his work site to those exists.
- (2) No exit intended to be used in case of fire, shall be less than 2 ½ ft. in width not less than 5 ft. 6 inches in height.
- (3) Every work site shall be provided and maintained with all possible fire extinguishing appliances, at all times.

14. Safety of Building and Machinery

Adequate measures shall be provided for ensuring the proper safety of buildings and machinery which children work with.

15. Hours and Period of Work

- (1) No child shall be permitted to work in any establishment or class of establishments for more than three hours before he has had an hour's interval for rest.
- (2) No child shall be permitted to work for more than six hours. These six hours will include the following.
 - rest interval
 - time spent in waiting for work
 - two hour spent on educational and recreational activities

16. Weekly Holidays

Every child labourer shall be entitled to one weekly holiday, and for that holiday, the child labourer shall be paid wages at a rate equal to the daily average of his wages for the days on which he has worked during the week, immediately preceding the holiday.

17. Medical Facilities to be provided

- (1) Every employer or occupier shall provide adequate medical facilities for all children employed.
- (2) Every month, the employer or occupier shall get medical check-ups done for all the children employed in the workplace.
- (3) Every employer or occupier shall maintain a medical register of all the children employed as in Annexure-I.

18. In case of accidents

- (1) Every employer or occupier shall be required to report to the concerned inspector about an accident of any child labour.
- (2) Every employer or occupier shall be required to bear all the medical expenses that may occur due to the accident.

(3) Every employer or occupier shall maintain a register of all accidents.

19. Evidence as to the age of a child labourer

(1) In respect of a child in an establishment, the inspector of the area within whose jurisdiction the establishment is situated, may at any time, require the employer or occupier to produce within such time, not being less than ten days from the date of requisition, one of the following documents showing the age of such child labourers employed viz., a certified copy of any extract from:

- (i) The records of any school;
- (ii) The birth register of local authority;
- (iii) Certificate granted by any Government Medical and Health Officer.

(2) In the case the employer fails to produce either of the documents required, under rule and sub-rule (1) above, the inspector shall arrange to get the medical check-up done or determine the age of the child labour employed, at the cost of the employer, through medical examinations conducted by an Assistant Surgeon of a district or regular doctor of equivalent rank employed in E.S.I., Dispensaries or hospitals, whichever necessary. The Medical Authority shall issue this certificate in Form No. A, as appended to the Rules.

20. Registers

Every employer or occupier shall be required to maintain a register, with regard to children employed or permitted to work in any establishment a register to be available for inspection by an inspector at all times during working hours or when work is being carried on in any such establishments showing the particulars in Form No. B appended to the rules.

21. Letter of appointment

Every employer or occupier shall be required to give a letter of appointment to every child labour employed by him in Form C appended to the Rules.

22. Powers of Inspectors

Subject to any rules made in this behalf, an inspector may within the local limits for which he is appointed enter, examine any premises which he has reason to inspect.

23. Return

Every employer or occupier shall furnish to the inspector on or before the 31st January of every following year, the annual return ending 31st December of the preceding year in Form No. D appended to the Rules in duplicate who will submit the same to the Labour Commissioner on or before 31st January of every year.

24. Interpretation

If any difficulty arises as to interpretation of these rules the decision of the State Government shall be final.

FORM 'A'
(Certificate of Age)
(See Rule 19)

Certificate No

I hereby certify that I have personally examined (Name).....
.....son / daughter of and that he/she has completed
his/her fourteenth year and his/her age, as nearly as can be ascertained from
my examination, is..... years (completed). His/her descriptive marks are: -

Thumb impression/signature of the Child

.....

Medical Authority

Designation

Place :.....

Date:.....

6.2 The Child Labour (Prohibition and Regulation) Rules, 1988

THE CHILD LABOUR (PROHIBITION AND REGULATION) RULES, 1988

G.S.R. 847(E), dated 10th August, 1988 — In exercise of the powers conferred by sub-section (1) of Sec. 18 of the said Act, the Central Government, hereby makes the following rules, namely:

Comment

Rule-making power — The general power of framing rules for effectuating the purposes of the Act, would plainly authorize and sanctify the framing of such a rule.

1. Short title and commencement — (1) These rules may be called the Child Labour (Prohibition and Regulation) Rules, 1988.
- (2) They shall come into force on the date of their publication in the official Gazette.

Comment

These rules have been framed by the Central Government in the exercise of the powers conferred by Sec.18 (1) of the Child Labour (Prohibition and Regulation) Act, 1986.

Rules - Whether validly framed — The question whether rules are validly framed to carry out the purposes of the Act can be determined on the analysis of the provisions of the Act.

2. Definitions — In these rules, unless the context otherwise requires:-
 - (a) "Act" means the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986);
 - (b) "Committee" means the Child Labour Technical Advisory Committee constituted under sub-section (1) of Sec.5 of the Act;
 - (c) "Chairman" means the Chairman of the Committee appointed under sub-section (2) of Sec.5 of the Act;

- (d) "Form" means a Form appended to these rules;
- (e) "register" means the register required to be maintained under Sec.11 of the Act;
- (f) "Schedule" means the schedule appended to the Act;
- (g) "section" means a section of the Act.

Comment

This rule defines the various expressions occurring in the Rules.

Interpretation by a court — The Court can merely interpret the section; it cannot re-write, re-cast or re-design the section.

Otherwise - What amounts to — The word "otherwise" is not to be construed *ejusdem generis* with the word "circulars, advertisements".

3. Term of office of the members of the Committee — (1) The term of office of the members of the Committee shall be one year from the date on which their appointment is notified in the official Gazette:

Provided that the Central Government may extend the term of office of the member of the Committee for a maximum period of two years:

Provided further that the member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

- (2) The members appointed under sub-rule (1) shall be eligible for re-appointment.

Comment

"Shall" cannot be interpreted as "may".

Proviso — *In Abdul Jabar Butt v. State of Jammu and Kashmir*, it was held that a proviso must be considered with relation to the principal matter to which it stands as a proviso.

4. Secretary to the Committee — The Central Government may appoint an officer not below the rank of an Under-Secretary to the Government of India as Secretary of the Committee.

Comment

This rule empowers the Central Government to appoint an officer not below the rank of an under-secretary to the Government of India as the Secretary to the Child Labour Technical Advisory Committee.

5. Allowances to non-official members. — The non-official members and Chairman of the Committee shall be paid such fees and allowances as may be admissible to the officers of the Central Government drawing a pay of rupees four thousand and five hundred or above.
6. Resignation — (1) A member may resign his office by writing under his hand addressed to the Chairman.
- (2) The Chairman may resign his office by writing under his hand addressed to the Central Government.
- (3) The resignation referred to in sub-rule (1) and sub-rule (2) shall take effect from the date of its acceptance or on the expiry of thirty days from the date of receipt of such resignation, whichever is earlier, by the Chairman or the Central Government, as the case may be.
7. Removal of Chairman or member of the Committee — The Central Government may remove the Chairman or any member of the Committee at any time before the expiry of the term of office after giving him a reasonable opportunity of showing cause against the proposed removal.

Comment

This rule lays down procedure for removal of Chairman or member of the Committee by the Central Government.

8. Cessation of membership — If a member —
 - (a) is absent without leave of the Chairman for three or more consecutive meetings of the Committee; or
 - (b) is declared to be of unsound mind by a competent court; or
 - (c) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

- (d) is, or at any time, has been adjudicated insolvent or has suspended his debts or has compounded with his creditors, shall cease to be a member of the Committee.

Comment

This rule deals with the matter relating to cessation of membership.

9. Filling up of casual vacancies — In case a member resigns his office under rule 6 or ceases to be a member under rule 8, the casual vacancy thus caused shall be filled up by the Central Government and the member so appointed shall hold office for the unexpired portion of the term of his predecessor.

Comment

This rule empowers the Central Government to fill up casual vacancies and it lays down that the member so appointed shall hold office for the unexpired portion of the term of his predecessor.

10. Time and place of meetings — The Committee shall meet at such times and places as the Chairman may fix in this behalf.
11. Notice of meetings — The Secretary to the Committee shall give at least seven days notice to every member of the Committee of the time and place fixed for each meeting along with the list of business to be transacted at the said meeting.
12. Presiding at meetings — The Chairman shall preside at every meeting of the Committee at which he is present; if, however, the Chairman is unable to attend a meeting, any member elected by the members present among themselves shall preside at the meeting.

Comment

“Shall” — It is well-known principle that in the interpretation of statutes that where the situation and the context warrants it, the word “shall” used in a section or rule of a statute has to be construed as “may”.

13. Quorum — No business shall be transacted at a meeting of the Committee unless at least three members of the Committee other than the Chairman and the Secretary are present:

Provided that at any meeting in which less than three of the total members are present, the Chairman may adjourn the meeting to a date as he deems fit and inform the members present and notify other members that the business of the scheduled meeting shall be disposed of at the adjourned meeting irrespective of the quorum and it shall be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending the meeting.

Comment

Scope of proviso — The scope of a proviso is well settled. In *Ram Narain Sons Ltd. v. Asstt. Commissioner of Sales Tax*, it was held:

“It is a cardinal rule of interpretation that a proviso to a particular provision of statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other.”

14. Decision by majority - All questions considered at a meeting of the Committee shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairman, or in the absence of Chairman, the member presiding at the meeting, as the case may be, shall have a second or casting vote.

Comment

This rule lays down that the matters considered by the Committee in its meeting should be decided by a majority votes of the members present. The rule further lays down that the Chairman or in his absence the member presiding at the meeting shall have a casting vote.

15. Sub-Committees. — The Committee may constitute one or more Sub-Committees, whether consisting only of members of the Committee or partly of members of the Committee and partly of other persons as it thinks fit, for such purposes, as it may decide and any Sub-Committee so constituted shall discharge such functions as may be delegated to it by the Committee.
16. Register to be maintained under Sec. 11 of the Act. — (1) Every occupier of an establishment shall maintain a register in respect of children employed or permitted to work, in Form A.

- (2) The register shall be maintained on a yearly basis but shall be retained by the employer for a period of three years after the date of the last entry made therein.

Comment

Under this rule every occupier of an establishment is required to maintain a yearly register showing the children employed or permitted to work and to retain such registers for a period of three years.

17. Certificate of age. — (1) All young persons in employment in any of the occupations set-forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on, shall produce a certificate of age from the appropriate medical authority, whenever required to do so by an Inspector.
- (2) The certificate of age referred to in sub-rule (1) shall be issued in Form 'B'.
- (3) The charges payable to the medical authority for the issue of such certificate shall be the same as prescribed by the State Government or the Central Government, as the case may be for their respective Medical Boards.
- (4) The charges payable to the medical authority shall be borne by the employer of the young person whose age is under question.

Explanation — For the purposes of sub-rule (1), the appropriate "Medical authority" shall be Government medical doctor not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in Employees' State Insurance dispensaries of hospitals.

Comment

Explanation — It is not well settled that an explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain and clarify certain ambiguities which may have crept in the statutory provision.

FORM A
[See Rule 16(1)]

Year

Name and

Address of employer..... Place of work

Nature of work being done by the establishment

Sl. No.	Name of Child	Father's Name	Date of Birth	Permanent Address	Date of joining the establishment
1	2	3	4	5	6

Nature of work on of work which employed	Daily hours of rest	Intervals paid	Wages	Remarks
7	8	9	10	11

FORM B
(Certificate of Age)
[See Rule 17(2)]

Certificate No.....

I hereby certify that I have personally examined (name.....
.....son / daughter of
residing at and that he/she has completed his/her
fourteenth year and his/her age, as nearly as can be ascertained from my
examination is years (completed).

His/Her descriptive marks are.....
.....
.....

Thumb-impression/signature of the child

Place

Medical Authority

Date

Designation

Supplement

The Child Labour (Prohibition and Regulation) Act, 1986

S.O. 333(E), dated 26th May, 1993. — In exercise of the powers conferred by sub-section (3) of Sec. 1 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Central Government hereby appoints the 26th day of May, 1993 as the date of which the provisions of Part III of the said Act shall come into force in respect of all classes of establishments, throughout the territory of India, in which none of the occupations and processes referred to in Sec. 3 of the said Act is carried on.

7.1 One-Day Orientation Training Design on Child Labour for Enforcement Officials

Session	Suggested Duration	Core Training Manual (CTM) Reference	Training Kit Reference
Registration	30 Minutes	CTM An Introduction Registration	
Introductory Session	30 Minutes	Theme-1 1.2 Introductory Session	
Child Labour: Concepts, Magnitude, Forms, Causes, Consequences Myths and Realities	60 Minutes	Theme-2 2.1 Conceptualizing 2.2 Magnitude 2.3 Forms and Causes 2.4 Consequences Theme-3 Myths & Realities	
Responses to Child Labour	60 Minutes	Theme-6 6.1 National Response 6.2 Child Labour Laws and Enforcement 6.3 International Response 6.4 Andhra Pradesh's Response to Child Labour	<ol style="list-style-type: none"> 1. Andhra Pradesh Responses on Children Education 2. National Policies 3. Summary of the Recommendations of the Report of the Commissions and Committees on Child Labour 4. National Law on Child Labour 5. National Projects on Child Labour 6. Select Judicial Pronouncement on Child Labour 7. International Instruments on Child Labour

Session	Suggested Duration	Core Training Manual (CTM) Reference	Training Kit Reference
Strategies to Make Child Labour Free Area	60 Minutes	Theme-9 9.1 Multi-pronged Strategies 9.2 Successful Strategies	Andhra Pradesh Responses on Children Education
Role of Enforcement Officials	60 Minutes	-----	Enforcement Officials' Handbook
Formulation of Action Plan	30 Minutes	Theme-11 11.1 Formulation of Action Plan	Enforcement Officials' Handbook
Consolidation of Learning, Feedback and Valedictory	30 Minutes	Theme-11 11.2 Consolidation of Learning 11.3 Feed Back Session 11.5 Valedictory	

7.2 Two-Day Sensitization Training Design on Child Labour for Enforcement Officials

Day 1

Session	Suggested Duration	Core Training Manual (CTM) Reference	Training Kit Reference
Registration	30 Minutes	CTM An Introduction Registration	
Introductory Session	60 Minutes	Theme-1 1.2 Introductory Session	
Child Labour: Concepts and Magnitude	60 Minutes	Theme-2 2.1 Conceptualizing 2.2 Magnitude	
Child Labour: Forms, Causes, Consequences Myths and	60 Minutes	Theme-2 2.3 Forms and Causes 2.4 Consequences Theme-3 Myths & Realities	
National and International Responses to Child Labour	60 Minutes	Theme-6 6.1 National Response 6.2 Child Labour Laws and Enforcement 6.3 International Responses to Child Labour	<ol style="list-style-type: none"> 1. National Policies 2. Summary of the Recommendations of the Report of the Commissions and Committees on Child Labour 3. National Law on Child Labour 4. National Projects on Child Labour 5. International Instruments on Child Labour
Andhra Pradesh's Responses to Child Labour	60 Minutes	Theme-6 6.4 Andhra Pradesh's Responses to Child Labour	<ol style="list-style-type: none"> 1. Andhra Pradesh's Responses on Children Education 2. Select Judicial Pronouncements on Child Labour

Day 2

Session	Duration	Core Training Manual (CTM) Reference	Training Kit/Handbook Reference
Recalling of the First Day's Learning	30 Minutes	Theme-11 11.2 Consolidation Learning	
Strategies to Eliminate Child Labour	120 Minutes	Theme-9 9.1 Multi-pronged Strategies 9.2 Successful Strategies	Andhra Pradesh's Responses on Children's Education
Role of Enforcement Officials	120 Minutes	—————	Enforcement Officials' Handbook
Formulation of Action Plan	60 Minutes	Theme-11 11.1 Formulation of Action Plan	Enforcement Officials' Handbook
Consolidation of Learning, Feedback and Valedictory	60 Minutes	Theme-11 11.2 Consolidation of Learning 11.3 Feed Back Session 11.5 Valedictory	

7.3 Three-Day Capacity Building Training Design on Child Labour For Enforcement Officials

Day 1

Session	Suggested Duration	Core Training Manual (CTM) Reference	Training Kit/Handbook Reference
Registration	30 Minutes	CTM An Introduction Registration	
Introductory Session	60 Minutes	Theme-1 1.2 Introductory Session	
Intra and Inter Processes	90 Minutes	Theme-1 1.3 Intra-Inter-Personal Process	
Child Labour: Concepts and Magnitude	60 Minutes	Theme-2 2.1 Conceptualizing 2.2 Magnitude	
Child Labour: Forms, Causes and Consequences	60 Minutes	Theme-2 2.3 Forms and Causes 2.4 Consequences	
Child Labour: Myths and Realities	60 Minutes	Theme-3 Myths & Realities	
Documentary on Child Labour	45 Minutes		

Day 2

Session	Duration	Core Training Manual (CTM) Reference	Training Kit/ Hand Book Reference
Recalling the Learning of the First Day	30 Minutes	Theme-11 11.2 Consolidation Learning	
National Responses to Child Labour	60 Minutes	Theme-6 6.1 National Responses 6.2 Child Labour Laws and Enforcement	<ol style="list-style-type: none"> 1. National Policies 2. Summary of the Recommendations of the report Commissions and Committees on Child Labour 3. National Law on Child Labour 4. National Projects on Child Labour
International Responses to Child Labour	60 Minutes	Theme-6 6.3 International Response	International Instruments on Child Labour
Andhra Pradesh Responses to Child Labour	60 Minutes	Theme-6 6.4 Andhra Pradesh's Response to Child/Child Labour	<ol style="list-style-type: none"> 1. Andhra Pradesh Responses on Children Education 2. Select Judicial Pronouncement on Child Labour
Learning from the Field Preparing for Field Work Guidelines for Field Work	240 Minutes	Theme-8 8.1 Preparing for Field Work 8.2 Guidelines for Field Work	

Day 3

Session	Duration	Core Training Manual (CTM) Reference	Training Kit/ Hand Book Reference
Recalling the Learning of the 2 nd Day	30 Minutes		
Feed Back from the Field Work	60 Minutes	Theme-8 8.3 Feed Back from the FW	
Acquiring Presentation Skills	120 Minutes	Theme-4 Acquisition of Presentation Skills	
Strategies to Eliminate Child Labour	120 Minutes	Theme-9 9.1 Multi-pronged Strategies 9.2 Successful Strategies	Andhra Pradesh's Responses on Children's Education
Role of Enforcement Officials	120 Minutes	-----	Enforcement Officials' Handbook
Formulation of Action Plan	60 Minutes	Theme-11 11.1 Formulation of Action Plan	Enforcement Officials' Handbook
Consolidation of Learning, Feedback and Valedictory	60 Minutes	Theme-11 11.2 Consolidation of Learning 11.3 Feed Back Session 11.5 Valedictory	

Notes

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