

**Report dated the 14<sup>th</sup> July 2005 to the  
National Human Rights Commission, New Delhi on a  
Complaint from Shri P Lakshapathy, CACL-K regarding  
Child Labour in the State of Karnataka. .**

Ref: NHRC Case No.144/10/2003-04 (FC) (Law Division-IV) dated February 28, 2005 and subsequent reminders.

In their Complaint to the Honourable Commission, the CACL-K have sought the intervention of the Commission to influence the Government of Karnataka in regard to certain issues affecting Child Labour. In their own words, the following are the points on which the CACL-K has sought the Commission' intervention:

“

- a) Free, relevant, equitable, quality and compulsory education for all children up to standard Ten or 18 years of age. The compulsion to provide education to all children must rest with the Government.
- b) Positive discrimination in favour of the girl children in terms of quality education, health, sanitation, recreation, and nutrition to develop their physical, psychological, spiritual and overall growth.
- c) Amending the existing Child Labour (Prohibition and Regulation) Act of 1986 to include all Child Labourers (those working in the domestic and hotel sectors need to be included in hazardous sector immediately) within its purview and to be oriented towards prohibition of Child Labour in all sectors and forms up to the age of 18 years.
- d) Right to food, nutrition and health for all children, especially girls. Privatization of health care services may negatively impact them.
- e) Strict implementation of laws backed by political will.
- f) Illiteracy is eradicated, scientific temper instilled; superstition and irrational practices are discerned and rejected.
- g) Girl child labour in made practically impossible as all girls join schools and are not available for work.
- h) Some of the Child Labour case which included death of domestic child labourers, burnt and some other cases which taken place recently in Karnataka have been enclosed for which we are requesting your need full help to provide justice to the victims and their family.”

2. I have categorized the several points made by the CACL-K in its Complaint into 5 broad heads, namely:

- i) **Right to Education** of children up to the age of 18 years, which is relevant, equitable, compulsory and of good quality, - the responsibility for this resting fully with the Government, with special emphasis on gender.
- ii) **Right to Food, Nutrition and Health** for all children, especially girls.
- iii) **Amending the existing Child Labour (Prohibition and Regulation) Act, 1986** so as to include all Child Labour with a view to prohibiting Child Labour in all sectors in all forms – hazardous or non-hazardous, up to the age of 18 years.
- iv) **Political will** and
- v) Promotion of a scientific temper in society.

3. A perusal of all the supporting material sent by the CACL-K to the Honourable Commission including case studies and the verdict of the jury in the National Convention on Girl Child Labour held in Mysore in 2003 shows the **centrality of poverty** in all its dimensions to this issue and the absence of political will and sincerity, administrative indifference in regard to implementation of the stated socio-economic policies and enforcement of the relevant laws relating to Child Labour. At the outset, I would like to record my agreement with these issues identified by the CACL-K and in particular with the “Policy Recommendations” made by the above-mentioned National Convention. I must emphasize here my particular agreement with the essential point governing those recommendations, which is the “strengthening of the families’ capacity to provide and protect their children” and the reference to the “household economy” being among the “decisive factors” determining the entry of the children into the work force. This needs to be mentioned at the very outset because there is a fruitless controversy raging among certain sections of activists whether or not poverty is the cause of Child Labour. Those who argue that poverty is not a cause also argue that Education is the only way to solve this problem, as though there is no connection between the two. No body can counter-argue that Education is not the most effective solution to many of our problems, including Child Labour. However, in my opinion these activists miss the simple point that lack of **Education itself is the most aggressive attribute, characteristic and manifestation of poverty, next only to hunger. So, when we say education is the answer, we are really saying that poverty, of which one manifestation is absence of Education, is amongst the most important causes of Child**

**Labour.** This point is reinforced when we find that concepts like bridge schools which are rightly advocated and used as instruments for mainstreaming the released Child Labourers by the Governments and NGOs, try to provide for a proper “residential” environment that includes food and shelter, which are themselves two important dimensions of poverty. I have argued this point at some length here because I wish to highlight the acknowledgement of this important dimension by the National Convention in its “Policy Recommendations”, enclosed to the Complaint of the CACL-K. In other words, the strategies advocated by CACL-K are worthy of support in the context of their recognition that “while education is a key sector, all other sectors and fields” are also relevant. Finally, the reference in the Policy Recommendations of the National Convention to the requirement of “improved data collection and research for policy and programme formulation” is valid in the context of identifying areas which need priority attention, and the policy answers required in those areas.

On Education itself, in the context of Child Labour, I wish to state that on behalf of the National Human Rights Commission I have repeatedly emphasized the principle of convergence of the efforts of all relevant Departments under the auspices of the Nodal Department, which is the Department of Labour in Karnataka. In this connection, I invite the Honourable Commission’s attention to the document “An Action Plan to Eliminate Child Labour in Karnataka” formulated by the Department of Labour, Government of Karnataka, at the instance of and inputs from me on behalf of the National Human Rights Commission, and a copy of which has been furnished by me to the Honourable Commission. This Action Plan, in Chapter XII on the Responsibilities and Duties of various Government Departments, gives the pride of place to the work relating to the Department of Education. This effort made in the Action Plan was taken further forward by me when a strategy of working out a **Road Map** for its implementation was evolved by me with specific tasks and time frames assigned to achieving the goals of the Action Plan, including mobilization of the finances required. In this connection, the Road Map for 2003-2004 enclosed herewith may kindly be seen. In my recent discussions on 30.6.2005 with the present Commissioner of Labour, Karnataka Shri V R Patel, I drew his attention to this particular mechanism in taking Child Labour work forward in Karnataka and the need for its strict implementation. I may also add that the former Commissioner of Labour Shri Sanjiv Kumar, who formulated the Road Map under my guidance, is currently the Commissioner of Education in Karnataka, which makes for sound convergence.

In the wider all-India context, I may add that, as a follow-up to Right to Education being made a Fundamental Right in 2002, the Central Advisory Board of Education (CABE) is currently discussing the draft enabling legislation, namely, the Free and Compulsory Education Bill, which is likely to be tabled in Parliament this year. A crucial issue in this legislation will be how to ensure that the private schools reserve the required percentage of seats (say, 25%) for the economically backward classes of students.

I wish make a final point about Education, the specific cases complained of by the CACL-K and the entire paradigm of NGO-State Government - NHRC collaborative action in regard to Child Labour. It is that the NHRC has consistently attached the highest importance to these issues. This is testified, among others, by the document "Joint Report on the Two-Day Sensitization Workshop for field level functionaries of Karnataka held on the 9<sup>th</sup>-10<sup>th</sup> October 2003". It would be seen from that document that Session V of that Workshop was on the concept of convergence and that the Commissioner of Education played the main part in that Session. Significantly, Shri Mathews Philip of the NGO SICHREM, a signatory to the CACL-K Complaint, was an important invitee to this Workshop and in fact was a panelist in Session VI on Child Labour issues. The Joint Report also refers to the Road Map on Child Labour and the promise made by the Inspector General of Police, who attended the Workshop, to investigate the 13 cases of suspicious deaths of domestic Child Labour reported by the NGOs at the Workshop.

**4. That the girl child labour situation in Karnataka is serious, as stated by the CACL-K, is beyond question. The CACL-K has referred in this context to the sericulture and domestic sectors. The National Human Rights Commission has been fully alive to this situation, particularly in regard to the sericulture industry.** In this connection, the Honourable Commission may please recall my "Report to the NHRC on the Investigation into Child and Bonded Labour in the Silk Industry in the Magadi and Ramanagara areas of Karnataka" dated the 5<sup>th</sup> July 1999. This Report of mine had thrown light not only on the specific cases of children, specially the plight of the girl children but also on the ignorance and callous attitude of the entire bureaucracy of the Government of Karnataka. This Report was indeed forwarded to the Government of Karnataka by the Honourable Commission. As a follow-up to this Report, at my own level, I organized a conference of NGOs in Bangalore in the year 2002 to which NGOs working in Magadi and Ramanagara were specifically invited so as to sensitize the entire NGO community in Karnataka to the problem of Child Labour in

the various sectors and to stress the significance to them of the involvement of the National Human Rights Commission in this area of work. Several follow-up visits have also been made to Magadi and Ramanagara by me, accompanied by the Commissioners of Labour of the Government of Karnataka, and a former Member of the NHRC Dr Justice K Ramaswamy also under took one such visit along with me.

5. **The need for research** to which CACL-K has referred in its Complaint, has always been fully appreciated by us in the Commission. Overcoming delays caused by procedural problems with the National Law School of India University, Bangalore and after considerable negotiations with the Institute for Economic and Social Change (ISEC), Bangalore we entrusted the Research project titled “Freedom Mortgaged and Future Abandoned: Bonded Child Labour in Karnataka’s Silk Industry” in April 2004 to ISEC. Coincidentally, it so happened that I visited the office of one of the signatories to the Complaint, namely, the NGO SICHREM in Bangalore for a three-hour discussion on the contents of the CACL-K complaint to the NHRC on the 22<sup>nd</sup> April 2004, including on the specific cases of Child Labour mentioned in the Complaint. I visited the ISEC, Bangalore in the after noon on the same day and finalized the Research Project on Child Labour with the Director, ISEC. Thus, the National Human Rights Commission is in agreement with the CACL-K on this point, and in point of fact, has initiated all necessary action in furtherance of its recognition of the same.

6. I now advert to the point relating to the **Right to Food, Nutrition and Health** for all children, especially of girls, made in the Complaint. In addressing these issues in the context of Karnataka, I cannot do better than to invite the Honourable Commission’s kind attention to my “Report on Suicide by farmers in the State of Karnataka” in NHRC Case No.180/10/2003-2004 (FC) (Law Davison-IV). In Chapter IV – Comments and Recommendations, I have dealt in detail with the nutrition situation and the Integrated Child Development Services (ICDS) Programme; the Public Distribution System (P.D.S); and the Wage Employment Programme in Karnataka. My analysis of the various aspects of governance in these programmes in Karnataka and the role of the Government of India will testify to the need for reforms in all these areas that will have a decisive influence on nutrition and livelihoods issues that impact on the poor. **These have relevance to Child Labour and school attendance. A well-run Anganwadi centre is a guarantor of genuine enrolment into the primary school, and a properly administered Mid-Day Meal Scheme in the school and an Employment Guarantee Scheme for the poor household are**

**guarantors against dropouts from the school.** Thus the Right to Food and Right to Work and Health, of which nutrition is a part, are intimately intertwined with an issue like Child Labour and universalisation of compulsory education. This is why the Right to Education rightly finds place in Article 21 of our Constitution.

**Viewed against this background, the points made in this context by the CACL-K are absolutely relevant.**

I may add that our own efforts in the Commission in regard to these areas through such mechanisms as the Core Group on Right to Food would endeavour to make the related rights to Work and Health a reality in the not too-distant future, which would make an impact over a wider area including on reducing incidence of Child Labour.

7. This brings us to the question of the **inadequacy of the Child Labour (Prohibition and Regulation) Act 1986. I agree with the CACL-K contention that this Act needs to be amended.** The main flaw in this Act is that it advocates a false dichotomy of hazardous and non-hazardous labour. Such a dichotomy should have no place in what we consider modern Indian civilization. The right thing to do is to abolish Child Labour of every description whatsoever. In this connection I invite the Honourable Commission's kind attention to the "Joint Report of the National Human Rights Commission and Government of Tamil Nadu on the Two-Day Sensitization Workshop for Field Level Officers and NGOs of Tamil Nadu on Bonded Labour and Child Labour issues held on the 4-5<sup>th</sup> March 2005". In particular, the recommendation under the heading Law, in Part-II, in paragraph 3 at pages 8-10 which discusses the inadequacies of the Child Labour Prohibition and Regulation Act, 1986 may kindly be seen. Also may be seen, paragraph 7 under Law in Part-II. The Honourable Commission may consider taking this effort of declaring Child Labour of any kind unlawful forward under its own leadership.

8. I now come to the question of generation of **political will** referred to by the CACL-K. This most important question of political will was examined closely by the Expert Group on Bonded Labour set up by the Honourable National Human Rights Commission in the year 2001 of which I was a member. I extract below the Expert Group's recommendations in this regard which is valid in regard to Child Labour as well:

“Before setting down these recommendations, the Group wishes to place on record its conclusion that the most fundamental and the single most important imperative for successfully dealing with the question of bonded labour is an honest desire on the part of the political leaders of the country. This, the Group believes, is singularly lacking. The absence of focus on issues relating to the abolition of the bonded labour system is really the absence of political will or a lack of desire on the part of the political leadership in various States. This lack of political will disguises itself in the minds of the bureaucracy as problems of definition in the bonded labour law. The absence of political will and political commitment to the abolition of the bonded labour system has led to the bureaucracy blandly denying the very existence of the bonded labour system in certain States like Karnataka, Punjab and Himachal Pradesh. Certain other States tactically acknowledge the existence of the bonded labour system but make it appear that it is so negligible that it calls for no particular effort to deal with the problem with any sense of urgency. This leads to the non-implementation of some of the most essential provisions in the Act such as the identification, release and rehabilitation and the constitution and convening of the District and Sub-Divisional Vigilance Committees. Though the Act has empowered the Executive Magistracy to try the offences and impose punishment, the Executive Magistracy rarely acts in terms of the powers conferred on them, thanks mainly to their belief that it pleases their political masters if they did not act against employers of bonded labour. **The first and foremost recommendation of this Group, therefore, is that the Supreme Court and the NHRC should devise means to hold the Chief Ministers of the States squarely and personally responsible for the implementation of the Bonded Labour Act and in carrying forward the mandate of the Honourable Supreme Court in this regard. One way of doing it is to compel the Chief Ministers rather than the Chief Secretaries to file affidavits of compliance on the implementation of the Supreme Court’s mandate issued to the States in this regard**”.

## **PART – II**

9. As far as the five specific cases referred to in the Complaint are concerned regarding which a notice was issued to the Chief Secretary and the Director General of Police, Karnataka by the Honourable Commission, I may state that though it was not expected that I should look into them I did speak to the Commissioner of Labour, Karnataka at the earliest point of time personally and wrote to him in September, 2003 and obtained his comments in October, 2003. Again in April, 2004 I obtained a detailed note from the office of the Principal Secretary, Labour, Government of Karnataka and reviewed the same with the Special Officer, Office of the Principal Secretary, Labour, Government of Karnataka and the Additional Commissioner, office of the Commissioner of Labour, Government of Karnataka on the 22<sup>nd</sup> April, 2004. Further information on these cases and the point of view of the complainants was obtained in a meeting with the complainants on the same day in the office of the NGO SICHREM. I ensured at this meeting at the SICHREM office the presence of the Additional Commissioner of Labour, Karnataka so that in formulating and in pursuing action in all these cases, the Labour Department of the Government of Karnataka should display the required sensitivity in the light of the perceptions of the complainants, as some of these cases had involved a high degree of violence.

I request that the above comments of mine may kindly be placed before the Honourable Commission for favour of its consideration.

**K R VENUGOPAL.**

Encl: As above.