



## Arrested development

As two cases of torture of children working as domestic labour in affluent homes in Mangalore and Mumbai hit the headlines, **Nandana Reddy** and **Kavita Ratna** write that bans are not the solution to child labour. Rather than policing the demand for child labour, we must address the reasons why children enter the labour market

*Hello.*

*Is there anybody out there?*

*Just nod if you can hear me.*

*Is there anyone home?...*

*When I was a child I caught a fleeting glimpse,*

*Out of the corner of my eye.*

*I turned to look but it was gone.*

*I cannot put my finger on it now.*

*The child is grown, the dream is gone.*

*I have become comfortably numb.*

-- Pink Floyd



For those of us who are rendered '**comfortably numb,**' in the words of Pink Floyd, by the copious visuals of children toiling in a variety of settings, perhaps a desperate and dramatic story such as the one of little Ayesha is needed to be temporarily roused from our apathy and seriously consider the issue of child labour.

On August 28, 2009, the Bangalore edition of **The Hindu** reported that Ayesha, who was working as a domestic help in a luxury apartment in Mangalore, sustained grievous injuries as she tried to escape from her employer who used to keep her locked up. This case followed close on the heels of the reported torture of a 10-year-old girl working as a domestic help in Mumbai. Such stories of abusive employers ill-treating hapless children surface every now and then from different parts of the country.

While these snapshots describing the plight of individual child domestic workers ' just a

few among thousands of such children in India ' are undoubtedly shocking and tragic, they are not freeze frames. Instead, they just provide glimpses of a long story with a thorny history and a future that is full of question marks and uncertainties.

Like most children who are forced by circumstances into exploitative work, Ayesha too most likely has a family that is deprived of basic needs, social security, resources and opportunities. It is also possible that her family belongs to a community that is socially, economically and politically disempowered. Perhaps there is also a backdrop of forced migration, of uprootedness and a daily struggle for survival. It is also most likely that little Ayesha, and for that matter her family, have very few choices if any and have absolutely no say in defining the policies or plans that have, and continue to have, a direct bearing on her past, present and future.

Ayesha's employer, the owner of a hotel chain in Mumbai, is reported to have said that he did not know that it was "***such a major offence to hire a child***" even though the Child Labour Prohibition and Regulation Act was passed in 1986 and in 2006 child work in the domestic sector, restaurants and dhabas were brought under its purview, for the first time bringing the Indian middle class under the ambit of the law.

The announcement of these two additions to the already long list of sectors and processes that were hitherto banned from child employment was met with mixed reactions. While some welcomed the move, several others remained cautious, even sceptical, as in the past the law had made precious little difference to working children. The majority felt that the government had not taken sufficient measures (including budgetary provisions) to implement the existing bans and were therefore incapable of extending it to 'invisible' sectors such as domestic work; others believed that the penalties on erring employers were not severe enough; while a few questioned the means, strategy.

### **The end does not justify the means**

Immediately after the ban was announced, several high-profile 'rescue' operations or raids began and both NGOs and government officials hit the headlines as the 'saviours of working children'. These 'raid and rescue' operations are still the core modus operandi of enforcing the Child Labour Prohibition and Regulation Act.

For instance, at a highly publicised raid on embroidery units in Delhi, some 500 boys aged between 5 and 15 were rounded up by an NGO and government officials. The children were locked up in an empty shopping complex for a week and fed leathery ***chapattis*** and watery ***dal***, while the NGO and officials 'decided what to do with them'. Neither the government nor the NGO that carried out the operation had any concrete plans for the children's future. For the children, it was like moving from the frying pan to

a fire.

Undoubtedly children must be protected from work that is harmful to their growth and development and detrimental to their physical, emotional and moral safety. However, bans are not the answer to the child labour question. Our organisation, The Concerned for Working Children believes that the ban is just a cosmetic move to appease the West and paint a clean image of India in the global market.

Bans can be imposed only through pressure and coercion. As a strategy, compulsion works as long as the pressure is maintained. The main thrust of the present strategy is compulsion, pressure and punitive action. The problem with compulsion is that it is like a spring: it stays contained only as long as the pressure is maintained and then bounces back and reverts to its old position, sometimes even worse than that.

Historically, as the worst forms of child labour such as children working in the glass, slate, match and carpet industries, and child bonded labour, were the first to capture the imagination of international agencies, the 'rescue and rehabilitation' approach gained currency. It is understandable that to address intolerable forms of child labour appropriate and humane 'rescue' and subsequent 'rehabilitation' are possibly called for. But even in such situations, the 'solution' has to offer children a better quality of life than the one they were found in. Also, as in most such situations, it is not just the children but their entire families that are enslaved to these industries; the rehabilitation plan has to cover the entire canvas to be meaningful and sustainable.

Fortunately, there are an increasing number of organisations and individuals, including journalists and political analysts who believe that the 'best interests of the child' are being violated by the ban approach, and they question the viability of such strategies that contravene several articles of the UN Convention on the Rights of the Child; they harbour serious doubts about their ability to create a 'child-labour-free India'.

Children are not commodities like narcotics that can be removed with a 'raid' and then disposed of. They are little human beings trying to survive in a very hostile world. Bans only attempt to shut off the demand for child workers, paying scant attention to the causes of poverty and the increasing supply of children to the labour market -- decreasing employment opportunities, increasingly elusive sources of livelihood, diminishing returns from agriculture, and years of drought and other natural disasters that leave families and whole communities -- a large percentage of India's population -- with no surplus to sustain them.

Children do not work because they want to or enjoy doing so, but because they and their families have no choice. 'Liberating' a working child without providing her and her family with alternatives that are better than their present predicament only pushes the

child into even more invisible and harmful employment. When it comes to child workers, we feel our duty ends with liberating the child from employment, in the process violating several rights of the child including her right to survival.

Children who are forced to labour are not criminals; they are victims of an unjust, unequal society. However, in the implementation of programmes that profess to address child labour, they are most often treated as perpetrators of crime, not as individuals whose rights are being violated, individuals struggling to survive in the midst of increasing pressures, individuals who should be respected and assisted to find 'real' alternatives that provide lasting solutions to their problems.

Since 1978, our government has concerned itself with the issue of children who work. Yet it is an outrage that lakhs of children still work in humiliating and injurious occupations. State strategies related to child labour in India have shamefully failed to meet our constitutional commitments to children and piecemeal, scheme-based, relief-oriented strategies have not only failed but also caused irreparable harm to them. For them, the approach has been crippling rather than enabling; criminalising rather than empowering; and marginalising rather than inclusive and participatory.

The only way the state has seen fit to implement this legislation is through compulsion, with the assistance of 'inspectors' from both the governmental as well as non-governmental sectors. The 'child labour programme' consists of identifying or locating working children below the age of 14, removing them from the workplace and installing them in an educational institution or brought into the juvenile justice system -- by 'raid and rescue operations' -- that are often carried out in ways that are extremely traumatic to children and concluded with piecemeal action. This is implemented through punitive action against the employers, while branding the parents irresponsible -- leading to the criminalisation of children who labour.

### **Whose problem is poverty?**

Very little has been done to delve deeper into the reasons why children work, beyond the longstanding perennial reason of poverty. These causes have never found a place in the design of interventions to 'eradicate' child labour.

Poverty is a condition that ails more than 42% of our population and, for some reason, the present rationale is that the poor have brought this condition upon themselves through resisting education, succumbing to superstition, and lacking initiative and enterprise; a condition that can be solved by waving the 'magic wands' of compulsory education and microfinance.

The fact that poverty could be the result of the economic and development model we

have adopted and the slow progress India has made towards political decentralisation are issues that are rarely debated.

Now, in addition to the existing challenges, global recession is sharply contributing to increased poverty and vulnerability of those who already lack social security, swelling the ranks of the poor and increasing the numbers of children who labour. If we insist on following the same 'game plan' we could find that besides a dramatic increase in child labour, we are also faced with long-term damage done to entire generations, creating a society that will be full of unrest, insecurity, crime and violence.

Action plans to address child labour are built on an erroneous premise. They concentrate on the 'pull factor' (the demand for child workers), not the 'push factor' (the reasons why children enter the labour market). They address the **prevention** of child employment, using punitive measures against the employer -- through a raids or 'rescue and rehabilitation' strategy to remove children from employment and finance bridge schools for ex-child workers.

It would be far more practical to address the supply side of child labour as this would ensure that we focus on the systemic and basic causes that push children into the labour market. This would lead to more permanent and sustainable solutions.

The blind and sanctimonious faith in schooling as the 'magic wand' that solves all problems and the conviction that all work is a curse upon childhood are both flawed and simplistic generalisations. It must be realised that the present 'schooling' available for children from marginalised communities has little to do with the development of independence, critical thinking and an enquiring engagement with the world. Rather, it is a form of 'training', designed to meet the needs of a rapidly changing economic market that few can predict, especially in this time of rapid technological, economic and social change.

There are some critical questions that need to be asked and answered:

- What is the status of all the children who have been 'rescued'? Have their expectations, raised by 'education', been fulfilled? Do they benefit from interventions even after they have crossed the magic age of 14 years?
- Does the 'rehabilitation' package guarantee children protection, meaningful education, respect, access to dignified employment, a secure future, and democratic citizenship?

- Does it guarantee viable employment for adult members of their families and an adequate livelihood for their communities? Does it provide them with a safety net to deal with adversities such as drought, cyclones, AIDS, communal violence?
- What about the children who have not been 'rescued'? What is their fate?
- A majority of children work in sectors and occupations that are not listed under the 'worst forms' of labour and do not find a mention in the schedule of banned sectors and occupations. What is to be their fate?
- And what about all the 'forgotten' children between the ages of 14 and 18 years who are still children and yet are left to fall between the cracks, their aspirations stifled to erupt as disillusionment, bitterness and anger that we as a society have to address?

### **The rights question -- the way ahead**

The resultant harm of such actions to children and the consequent violation of their rights are put down as 'collateral damage'. This is not acceptable.

There are solutions to this very complex problem that are appropriate, viable and sustainable. The key to this is to tackle the supply side of the issue. First, break up the problem into manageable portions. Decentralise the design, planning and implementation of initiatives to the panchayat and municipality level. Second, make the working children themselves part of the solution.

In Karnataka, working children sit together with the gram panchayat and members of the community and draw up five-year plans that include strategies to solve the basic causes of child labour. As a result we, The Concerned for Working Children, have seen a marked reduction in the number of working children. When we began work in north Karnataka years ago, each panchayat had child labour figures running into four (around 1,800) digits; now they are within the two-digit range (around 20). In South Kanara, this approach has rendered panchayats 'child-labour-free'.

We must uphold the Convention of the Rights of the Child and keep the 'best interests of children' as the central principle of all strategies and interventions. This can only be

done by recognising children as active participants in the process.

Empowering children can convert child workers into protagonists. All children, more so children who work, are living, thinking, feeling human beings who are capable of participating constructively and actively in the formulation of solutions. They and their families need to be empowered to become agents of their own change. Such a movement from below, with the right support and resources, can achieve much more than treating working children and their families as transgressors of the law.

All existing strategies and plans of action need to be reviewed in great depth from the perspective of child workers and the impact on them and their families. We need to evolve a comprehensive, multi-pronged, bottom-up, decentralised and participatory approach to addressing the problem of child labour.

Decentralised social monitoring will enable local governments to have a much better grip on the progress of the action plan, and effectively plan progress. Each panchayat or municipal ward should begin by conducting a detailed survey of child workers in the area. The survey should be planned and conducted by the working children themselves, in partnership with local government authorities, other children and the community. This data should serve as the baseline for monitoring progress. Social monitoring by children, their families and the community, together with local governments, will enlist the whole population in the mission.

Programmes such as the NREGS, that provide an economic buffer for the most marginalised, have to be implemented with total commitment, honesty and transparency. Strengthening local governments and democratic decentralisation will go a long way in developing localised solutions to the problem of child labour.

Developing a holistic national policy on migrant workers, with special emphasis on their political, social, cultural and economic rights, will fortify some of our most vulnerable communities. The long-awaited educational reforms that ensure meaningful education that includes work experience for all have to be carried out.

We must adopt a more enabling and empowering strategy that does not treat child workers as the problem, but includes them as a part of the solution. Let consultations with working children themselves form the basis for a new plan of action that is child-rights-friendly and takes into account both the micro and the macro causes of child labour.

***(Nandana Reddy and Kavita Ratna are with The Concerned for Working Children)***

**Infochange News & Features, September 2009**