



CHILDREN AND THEIR RIGHTS IN MINING AREAS

A Community Resource Guide

CHILDREN AND THEIR RIGHTS IN MINING AREAS

A Community Resource Guide

Published by

HAQ: Centre for Child Rights, New Delhi
Samata, Visakhapatnam

ISBN Number- 978-93-83807-01-7

Printed and Published in September 2014

Any part of this report can be reproduced with permission from the following:

HAQ: Centre for Child Rights

B-1/2 Malviya Nagar
New Delhi-110017
Phone: 91-11-26677412/3599
Fax: 91-11-26674688
Email: info@haqcrc.org
Website: www.haqcrc.org

Samata

Dabbanda Village, Gandigundam Post,
Mamidilova Panchayat, Anandapuram
Mandal, Visakhapatnam,
Andhra Pradesh-531173
Phone: 91-891-2737662, 91-08933201005
Email: samataindia@gmail.com
Website: www.samataindia.org.in

Suggested citation: Samata and HAQ: Centre for Child Rights. Children and their Rights in Mining Areas - A Community Resource Guide. 2014. India

Text

Enakshi Ganguly Thukral
Anisha Ghosh

Supported by: Terre des Hommes Germany

Photographs: Cover Page – Kevin Frayer, Associated Press
All others – Enakshi Ganguly Thukral

Design and Print: Aspire Design

PREFACE

In 2010, HAQ: Centre for Child Rights, Samata in close partnership with mines, minerals and People (mm&P) and Dhaatri Resource Centre for Women and Children conducted a study, India's Childhood in the "Pits"- A Report on the Impacts of Mining on Children in India with the support of Terre des Hommes (tdh) Germany, AEI & ASTM, Luxembourg in 2010. This report gave an insight into the impacts of mining on children living and working in eight states.

This study established in detail how mining affects children, directly and indirectly. Among the direct impacts are the loss of land leading to displacement and dislocation; increased morbidity due to pollution and environmental damage; consistent degeneration of quality of life after mining starts, increase in school dropouts and children entering the work force.

The indirect impacts of mining, often visible only after a period of time, include fall in nutrition levels leading to malnutrition, increase in diseases due to contamination of water, soil and air; increased migration due to unstable work opportunities for their parents etc.

The report was well received and also had some impact—such as—a question was raised in Parliament, several news papers covered the report at the national, regional and state level. Most importantly, for the first time the issue of impact of mining on children drew attention of the Government of India, especially on Ministry of Mines. After the release of the report in the National Consultation on Mining and Children held in 2010, an Inter – Ministerial Committee was set up by the secretary of mines to address the issues of women and children in the mining areas.

Following the release of the report, tdh supported Samata to organise six public hearings through which the children, parents and others could express their problems. Through these public hearings, what became apparent was the lack of understanding of child rights activists on mining issues and their subsequent impact on children. Similarly those working on mining issues are unable to make the connection of the child rights violations that they see in mining areas. This gap needed to be filled urgently.

Samata and HAQ: Centre for Child Rights have, since 2012, been working towards filling this gap through training the Community Based Organisations (CBOs), community representatives, etc. using this Community Resource Guide (CRG) on Children and their Rights in Mining Areas. The purpose of this CRG is also to enable CBO and individuals to know how mining and its related activities impact communities, resources, people and predominantly—children.

We hope this Community Resource Guide will address the concerns that the "mining children" face and will help to uphold rights of the children by using the laws that are available in the country.

We are thankful to Terre des Hommes (tdh), Germany for supporting us in this initiative.

Enakshi Ganguly Thukral
HAQ: Centre for Child Rights

Ravi Rebapraggada
Samata

LIST OF ACRONYMS AND ABBREVIATIONS

CBO	Community Based Organisations
CICL	Children in Conflict with Law
CLPRA	Child Labour (Prohibition and Regulation Act) 1986
CRG	Community Resource Guide
CWC	Child Welfare Committee
ICPS	Integrated Child Protection Scheme
FRA	Forest Rights Act, 2006
IT Act	Information Technology (Amended) Act, 2008
ITPA	Immoral Traffic Prevention Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
JJB	Juvenile Justice Board
NCPCR	National Commission for Protection of Child Rights
NGO	Non Governmental Organisation
NMP	National Mineral Policy
NREGA	National Rural Employment Guarantee Act, 2005
PTR	Pupil Teacher Ratio
POCSO	Protection of Children from Sexual Offences, 2012
REPA	Right to Education Protection Authority
RTE	Right to Free and Compulsory Education Act, 2009
SCPCR	State Commission for Protection of Child Rights
NCLP	National Child Labour Project
DISE	District Information System for Education
UNCRC	United Nations Convention on the Rights of the Child
SMC	School Management Committee

TABLE OF CONTENTS

List of Acronyms and Abbreviations	iv
Children and Mining	1
Introduction	1
The Resource Guide on Children and Mining	3
What is the Need for this Community Resource Guide?	5
Mining and Child Rights	5
Overview of Mining in India	5
Overview Through Statistics	6
Mining & its Types	7
Environmental Impacts	8
Health Impacts	8
Socio-economic Impacts	9
Mining Laws	13
Some Other Aspects of Mining	13
What can We Do in Mining Areas ?	15
Children and Mining: Where Is the Connect?	19
Children are affected Directly and Indirectly by Mining	20
Mining Children and the Law	22
Who is a Child?	22
Why must We Focus on Children's Rights?	23
What are Children's Rights?	23
Children's Rights are Broadly Divided into Four Categories	24
All Children are not Equal	24
What Rights Do Mining Children have?	24
International Law	25
UNCRC and Children Displaced Due to Mining	26
Indian Laws	28
National Laws	29
The Young Child in the Mining Area	30
Mining Children and Their Right to Education	30
What to Do when There is a Violation of Children's Right to Education?	31

Rights of Children in Need of Care and Protection and in Conflict with Law	33
Child in Conflict with Law	34
Child labour and Mining	35
The Child Labour (Prohibition and Regulation) Act, 1986 (CLPRA)	36
The Juvenile Justice (Care and Protection of Children) Act, 2000	36
The Bonded Labour System (Abolition) Act, 1976	36
Children (Pledging of Labour) Act, 1933	37
The Mines Act, 1983	37
Mining and Trafficked Children	38
Trafficking for Commercial Sexual Exploitation	38
Trafficking for Labour	39
Mining Children and Sexual Abuse	41
Mining and Child Marriage	45
Important National Commitments on Child Marriage are:	45
Under this Law	46
Whom to Contact if there is a Violation of this Law?	46
Where can a Complaint of Child Marriage be filed?	47
Integrated Child Protection Scheme (ICPS)	47
The scheme calls for establishment of new bodies within a service delivery structure-	48
Ensuring Children Are Heard	50
Annexure List of State Commission for Protection of Child Rights in India	53

CHILDREN AND MINING¹

Introduction

The Ministry of Mines' fundamental job is to mine. Many of the violations and human rights abuses that result from mining, especially with respect to children, are not the mandate of the ministry to address. The responsibility lies elsewhere, due to which seeking justice for the child poses several obstacles.

In *adivasi* regions, mining has caused landlessness and depletion of forest resources. Children's nutrition has been seriously affected by this displacement and depletion. For the Revenue Department, however, their task is to acquire lands because mining is a 'public interest' activity and hence, the health and nutrition of children does not seem to fit into their domain. The Women and Child Welfare Department is responsible for providing supplementary child nutrition and to address issues of child mortality. But it is not consulted at the time of granting mining leases to protect the food security of *adivasi* children from being affected by mining. Their supplementary nutrition programmes, even if they are implemented (which most times are not, as seen in many of the case studies) are far from adequate to deal with the malnutrition and threat to child mortality in mining areas.

Many children were found not to be attending school due to poverty created by mining. The Education Department is responsible for ensuring retention of children in school and to ensure enrolment and attendance. However, the responsibility is shifted on to the parents who are treated as the main culprits for the children being out of school. But the mining activity or mining company is never held responsible for the school drop out rates or for the situation of child labour in spite of the fact that in every mine site visited, children reported poverty and indebtedness in the family caused by mining as the main reason for leaving school.

The reason for children not attending school is because they are forced to work in the mines as their parents are either dead or too ill to work. It is the responsibility of the Labour Department to address child labour issues. The Labour Department has been simply denying that there is child labour as was evident from the responses we received to the Right to Information (RTI) applications regarding child labour. The Education Department has either been claiming that majority of children are enrolled or are being taken care of by National Child Labour Project (NCLP) schools. But the Census data, District Information System for Education (DISE) cards of the Education Department itself and our own case studies in the field reveal that many children are out of school or working in different informal activities. The case studies also show that very few mining affected areas have NCLP schools. It was found that children of migrant mine workers do not have a decent roof over their heads and the mine site doubles up as their playground and house. Migrant labour is not directly

¹ Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, India's Childhood in the 'Pits'—A Report on the Impacts of Mining on Children in India.

the responsibility of any specific department in terms of providing basic development facilities. Therefore, they do not have rights for housing or land. Children of migrant workers are malnourished as their families do not have ration cards and do not have the purchasing capacity to buy sufficient food from the market. These families find it extremely difficult to get ration cards issued to them by the Revenue Department as they do not have a proof of residence or a stable identity. Water is a very serious problem expressed by the women as mining activities everywhere have depleted water resources and reduced the existing water bodies to highly contaminated cess-pools unfit for human or animal consumption. Our case studies found that water bodies were dried up, courses of streams and rivers have been changed, groundwater levels have fallen and in many places, the only water bodies left are the cess-pools of water from mine pits. Children in mining areas visited were found to be vulnerable to water and air borne diseases as pollution from mining activities forces them to either consume contaminated water or live without access to water.

In many places women showed their pots of dark and dirty drinking water, which ought not to be consumed. No authority is directly responsible for providing these basic amenities to migrant workers' settlements. The local *panchayat*/municipality is not responsible for supplying drinking water, as the migrant colonies are not within their jurisdiction of governance. The Ministry for Water Resources is never consulted as a stakeholder when mining projects are sanctioned, so their role in regulation and protection of water bodies with regard to mining affected areas is almost negligent. Crisis over water not only has impacts on children's health and hygiene in the immediate surroundings but has implications downstream to a larger region, whether with respect to reduced food security due to lack of irrigation for farmers or health hazards due to toxic waste in the waters.

Taking kerosene out of white mud

Illakal, Karnataka

Children engaged in taking kerosene out of mud? Sounds completely bizarre, does it not? And it is just that—totally bizarre or would we call it innovative? Not just that, it is also a reflection of abysmal levels of existence that as nation we force our people into with impunity.

Girls and women sit on piles of white slush generated by the granite factories in the process of cutting and polishing granite rocks. They scrape together this semi dried white slush into iron basins, pour water into it and begin to knead it like dough till the kerosene begins to float on top, which they then pour out by cupping their palms into plastic mugs. Once all the sediments settle, this is pored into used Bisleri, Aquafina and other mineral water bottles. In the evening a 'contractor' comes and buys the bottles of kerosene from them at Rs.10 a litre and sells it back to the factories at Rs.18-20 a litre. The women and girls cannot carry home the kerosene they have distilled. It has to be sold the 'contractor'—at the most they can request him for some.

The granite market is booming in Illakal in Karnataka. The best quality granite is exported. The biggest market is China. Chinese buyers come all the way to buy cheap and best granite.

Mounds of white slurry are dumped all across the countryside. It is not as though they are auctioned—they are just there polluting the land and making it infertile. No drafter of any labour legislation would have imagined that such a hazardous occupation would be 'developed'. The little hands that knead the slush are roughened and weathered by constant exposure to kerosene. They drop out of schools or never reach them so that they can knead slush and distil used kerosene! Once gain it is failure of agriculture and weaving that has forced them into this. One more price of globalisation and open market!

Our Mining Children—A Report of the Fact Finding Team on the Child Labourers in the Iron Ore and Granite Mines in Bellary District of Karnataka, 2005

THE RESOURCE GUIDE ON CHILDREN AND MINING

What is the Need for this Community Resource Guide?

There are many children across India growing up in and around the mining areas. Mining affects their lives directly or indirectly. It is these children who we refer to as the Mining Children.

Somehow, while working on mining issues, concerns relating to children tend to get overlooked. On the other hand, groups working on children have very little understanding on mining and its impact on children. Over the last few years, a need has been felt to bring these issues and groups together.

This Community Resource Guide will specifically deal with the concerns of children affected by mining. The purpose is also to enable Community Based Organisations (CBOs) and individuals to know how mining and its related activities impact communities, resources, people and predominantly-children.

A study conducted by HAQ: Centre for Child Rights and Dhaatri Resource Centre for Women and Children – Samata in the year 2010 — 'India's Childhood in the "Pits" — A report on the Impacts of Mining on Children in India' has provided a glimpse into the lives of children living, working, affected by and exploited by mining in India.²

Who can use this guide?

This guide can be used by people working on the rights of mining children. These can include:

- Persons working on rights of children and wanting to address the needs and rights of mining children.
- Persons who are working with communities on mining, land rights and displacement issues and are interested in addressing the needs and rights of the affected children.
- Persons wanting to train the communities under threat from mining to deal with concerns, needs and wants of mining children.
- Individuals such as lawyers, academicians and researchers interested in knowing more about laws that safeguard rights of mining children.
- Government officials, *panchayat* officials etc. involved in implementation of various laws and policies for ensuring as well as protecting rights of children in mining areas.

² India's Childhood in the "Pits"—A Report on the Impacts of Mining on Children in India.

This Guide therefore aims to enable individuals, organisations and communities working in mining areas to address children's rights and focus on interventions and implementation of the laws available in the country for protecting children.

What Human Rights Values are We Promoting in this Guide?

- Right to survival, food, nutrition and health care
- Right of children to education and development
- Right to be free from all forms of exploitation and abuse
- Right to inclusion and participation in decision making

These Human Rights values form the basis of the belief that children being a special group must have their own rights. These rights are going to be our focus in this Community Resource Guide (CRG). This guide complements Samata's Community Research Guide to understand mining cycle, its impact and remedies, 2013.

How best can this guide be used

Some of the ways in which this CRG can be used are as below:

- Begin with **reading the CRG** to understand and familiarise with the human rights and child rights principles and values
- **Reading and following the tips** given in certain sections will enhance understanding and can help find the way out in situations
- **Identifying Mining Children** and assessing their situation is important. Once identification is done it will become easier to help such children access their rights
- **Building strategies** on how such children can benefit by intervention and use of the laws and international conventions
- **Mobilising communities** to work towards protection of the rights of mining children and elimination of violence, discrimination, exploitation
- **Using the CRG** to train social workers, individuals and others working towards protecting rights of children in mining areas
- **Advocacy** tools can be developed on the basis of the experience gained while using the guide to impress upon district officials, state governments, commissions such as State Commission for Protection of Child Rights (SCPCR) to take cognizance of the concerns of mining children and act upon them
- **Form networks, alliances, groups** to spread awareness on the issues related to children in mining areas and this guide can be used to prepare action plans

MINING AND CHILD RIGHTS

Overview of Mining in India

India has a long history of mining. As many as eighty nine minerals, which include four fuels, eleven metallic, fifty two non-metallic, three atomic, and twenty two minor minerals (including building and other materials) are mined.

Since independence, there has been a pronounced growth in mineral production both in terms of quantity and value in India.

Given the growing scarcity of water and the extensive digging that is taking place to access ground water, we now find that we have mined more valuable water than revenue from the minerals.

Clearly, the mineral resources of our country need long term strategies that take into account the consequences of current level of mineral exploitation, future needs, and breakthrough in technology. Mining legislation needs to ensure stability and a long term shift to renewable resources.

Instead, mining activities are extremely poorly regulated. There are no credible estimates of the numbers of mines operating in India; figures vary from source to source. However, the obvious reality is the illegal mines exponentially outnumber the few that follow the due process of law.³

³ Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, India's Childhood in the "Pits"—A Report on the Impacts of Mining on Children in India.

Overview Through Statistics

TABLE 1.1: PUTTING IN PERSPECTIVE THE NATURAL & HUMAN RESOURCE IN MINING SECTOR OF INDIA							
S.No.	States	Forest Diversion		Royalty*	Avg. Daily Emp.*	Leases	Lease area
		No. of cases	Area in hectares	Rs. Crore (3 yrs. Avg.)	Nos. (4 yrs avg.)	Nos.	in hectares
				2007-10	2007-11		
1	Rajasthan	232	6880.39	800.29	13200	2587	106479.18
2	Orissa	172	18385.57	474.01	28652	528	76356.67
3	Andhra Pradesh	205	19838.54	281.86	7551	1948	71072.74
4	Karnataka	169	12075.45	250.92	13821	615	46784.85
5	Jharkhand	126	13804.58	156.38	11720	330	37059.58
6	Gujarat	55	9927.11	192.1	8555	1125	30817.62
7	Madhya Pradesh	174	15094.7	250.59	9855	963	28524.2
8	Goa	52	1863.25	113.28	6052	337	24445.88
9	Chhattisgarh	126	27220.44	259.02	11377	314	20143.54
10	Maharashtra	119	3730.66	90.49	5698	254	16312.35
11	Haryana	0	0	0.06	-	110	11638.53
12	Tamil Nadu	31	380.34	107.2	5498	925	11180.67
13	Uttar Pradesh	5	2006.44	-	1265	88	9290.11
14	Uttarakhand	23	272.66	-	1271	69	3077.78
15	Kerala	1	29.2	7.7	1716	85	2943.33
16	Jammu & Kashmir	0	0	2.93	51	57	2671.84
17	Himachal Pradesh	60	1664.07	40.16	663	54	2665.09
18	Bihar	10	418.17	2.69	296	11	2074.72
19	Meghalaya	1	116.589	7.26	391	22	1448.53
20	Assam	82	166.88	0.77	415	8	929.5
21	West Bengal	6	281.8	-	605	53	780.64
22	Sikkim	1	0.05	-	-	3	96.32
23	Andaman & Nicobar Island	8	19.59	-	-	-	-
24	Arunachal Pradesh	16	103.47	-	-	-	-
25	Punjab	1	0.002	-	-	-	-
26	Tripura	17	27.31	-	-	-	-
Total Summary		1692	134307.23	3037.71	128652	10486	506793.67

Notes: The figures pertain to non-fuel but major minerals (both metallic and non-metallic), also excluding atomic and minor minerals.

* for non-fuel, non-atomic minerals

- indicates information not available / not reported

Forest Diversion Status as on 01.03.2011

Leases and lease area pertain to 65 minerals (excluding fuel, atomic and minor minerals)

Average employment means number of mandays worked by the number of working days

Mining & Its Types

Mining is a process of extracting minerals both from above the ground (hills, plateaus), below the ground (underground), on the ground (on surface or at shallow depth) with the help of machines and labour.

Extraction of minerals is done through several methods but broadly restricted to three types⁴ –

- Surface mining
- Sub-surface mining
- In-situ mining
- Deep-sea mining

Here to briefly discuss about mining and its types in India:

- The two main types of surface mining include Placer mining and Open-cast mining.
 - **Placer mining**, also called alluvial mining, involves dredging rivers and sifting out the valuable minerals. Types of placer mining include sluicing, dredging and panning. Open-cast mining is more visible in terms of its ore, waste, depth and its relation with rest of the landscape.
 - **Open-cast mining**, also called open-pit mining, disturbs large areas of land and wastes a lot of groundwater, leaving huge amounts of solid (often poisonous) waste and huge holes in the earth. This type of mining is usually used for mining hard rocks. Coal mining is largely underground as well as opencast. One can also consider small scale mining in this category. Small scale mining can be done even by an individual or in small groups. Usually sifting of minerals is done by hand and often by panning. In this case mills may be used to crush the ore.
- **Sub-surface mining** is also known as underground mining involves digging and drilling into the ground to remove the desired minerals such as coal. The ore is brought to the surface through tunnels and shafts. Conventional methods of sub-surface mining such as blast mining involve the use of dynamites. This form of mining disturbs the earth less but is often more hazardous to the mineworkers and their families who live nearby. A type of conventional mining- mountain top removal too involves blasting away mountaintops using explosives to reach the minerals sought. The practice can produce huge volumes of waste materials, which are often dumped into adjacent valleys and streams. The two most common minerals mined this way are coal and limestone for cement production.
- **In-situ mining** is considered as one of the less common method of mining. The technique used in this involves neither digging at the surface nor underground. Cyanide heap leach mining (for gold and silver) involves spraying a cyanide solution (it is considered to be a deadly poison) over the ore and collecting the dissolved metals from the bottom of the heap. Spilled cyanide can quickly kill people as well as fish and other aquatic life, and has the capability to poison drinking or irrigation water.
- **Deep-sea mining** is a relatively new mineral retrieval process that takes place on the ocean floor. Ocean mining sites are usually around large areas of polymetallic nodules or active and extinct hydrothermal vents at about 1,400–3,700 meters below the ocean's surface.⁵ The vents create sulphide deposits, which contain precious metals such as silver, gold, copper, manganese, cobalt, and zinc. The deposits are mined using either hydraulic pumps or bucket systems that take ore to the surface to be processed. As with all mining operations, deep sea mining raises questions about environmental damages to the surrounding areas.

⁴ Sanjay Sah, Head, Energy and Minerals, CRISIL Risk and Infrastructure Solutions Limited.

Forms of Mining in India – Need for Mechanisation – <http://crisil.com/pdf/infra-advisory/6-mining-in-india.pdf>. Accessed on 17.01.13.

⁵ Experimental seabed mining raises concerns in India – <http://www.pina.com.fj/index.php?p=pacnews&m=read&o=6891807284ff113797a2680fefe1dd>. Accessed on 17.01.13.

Impact of Mining on Communities⁶

Table 1.2: Hazards and risks in the general mining experiment

Hazards/risks in the living environment	Possible consequences
<ul style="list-style-type: none"> • Exposure to: <ul style="list-style-type: none"> ♦ Subhuman living conditions (lacking sanitation, drinking water, extreme geographical and climatic locations); ♦ Complicated dependency relations; ♦ Degrading social environment (criminality, prostitution); ♦ Exposure to STD, AIDS, etc.; ♦ Inequality between men and women (men dispose of economic resources); erosion of family social structure; ♦ Violent behaviour towards child workers; ♦ Violent conflicts among minors and with surrounding communities; ♦ Lack of law and order. 	<ul style="list-style-type: none"> • Deterioration of ethical value system • Injuries or death due to crime or violence • Omission of schooling and education • Vulnerability to disease due to lack of hygiene and sanitation exacerbation of injuries and illness due to lack of health services

Source: International Programme in Elimination of Child Labour, International Labour Office, Eliminating Child Labour in mining and quarrying – Background document World Day Against Child Labour, 12 June 2005; pp.13.

Environmental Impacts

Unrestricted mining operations almost always bring in environmental disaster. This is how the impacts can be seen:

- Mining causes massive deforestation, which can reduce rainfall, dry up the local climate, destroy habitat for foraging, fishing and hunting, and force birds and animals into extinction, thus, reducing the region's biological diversity and wildlife habitat.
- As the forests are destroyed, there is a strong possibility of the communities no longer finding edible plants, medicinal herbs, fish, game, or plants used for construction and utensils.
- Construction creates noise, dust, vibrations and erosion that affect animal, fish and human populations. During the mining operations, air and water get polluted with toxic chemicals leading to numerous diseases and death of birds, fish, animals and humans.
- Even after the mines are closed, heavy metals usually continue to leach into the groundwater and rivers for centuries, poisoning fish and the animals and birds that feed on them.
- Mining also requires enormous amounts of water. To produce the gold in a ring, for example, requires 8,000 litres of water. Mining often dries up the local water supply very quickly, making agriculture and livestock production difficult or impossible. Drinking and cooking water become scarce as well.

Health Impacts

All phases and all types of mining can have serious impacts on human health. These impacts are closely linked to environmental impacts. It is difficult to prove that mining is the direct cause of a specific person's illness, so it's difficult to sue a company for health problems. That is why it is so important to prevent the environmental contamination that can cause illness.

- Mining leads to dust and air pollution which cause respiratory illnesses and irritation of the eyes and skin.
- Drinking water and water used for irrigation are frequently poisoned, sometimes for centuries. Contaminated water from mines can poison crops thousands of miles away from the mines.

⁶ Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, India's Childhood in the "Pits"—A Report on the Impacts of Mining on Children in India.

Water contaminated with toxic substances like mercury, lead, arsenic and cyanide can cause a wide variety of serious ailments, including cancer and birth defects. Food irrigated with contaminated water can cause similar health problems. Pollution from small-scale artisanal mines as well as large-scale mines can cause serious diseases among the miners, their families, and downstream communities.

- Copper smelting produces toxic fumes that can destroy vegetation and cause many illnesses and birth defects in humans. (Sometimes mining companies are forced to use expensive filters, but usually not in poor areas.) Uranium mining can expose workers to dangerous levels of radioactivity leading to cancer and other chronic diseases.
- Underground mining is especially dangerous because of accidents that trap and sometimes kill mine workers. Death and debilitation from silicosis and lung cancer, black lung disease, cave-ins, explosions, floods and other accidents are all common.
- After the end of mining operations, health effects often continue to affect the local population for decades.
- There are other, indirect, health risks posed by mining operations. There is a greater risk of water-borne and other infectious diseases. The loss of crop land and the drying up of water resources can lead to decreased food supply, malnutrition, and cultural disruption.

Socio-economic Impacts

The impact of mining on community can be devastating. With mining companies allowed to explore minerals in forest or tribal areas, the likelihood of social disruption has dramatically increased. It then takes many years to re-build the social, cultural and spiritual structures and bonds that were the community's real wealth.

Loss of livelihood

Minerals tend to be located in rich fertile lands, which cannot be easily replaced. Increased amount of agricultural land being turned over to mining area affects the food security in the affected areas.

Agriculture and fishing can be severely reduced due to contamination or drying up of water supplies. Local food production drops as mining jobs replace agricultural ones. Sustainable activities like tourism are affected because the area is no longer attractive to tourists. The community becomes impoverished as the cost of living rises sharply due to high wages going to a small portion of the populace.

Displacement causes a significant disruption to education and healthcare for children. Families may be forced to relocate to areas where infrastructure is poor or there is a lack of basic services. Many displaced children rarely have the opportunity to return to school after moving locations. Because their parents lose their livelihoods and end up as migrant daily wage labour, children of displaced families are often forced to work in order to contribute financially to their family's survival⁷.

Forced migration

This is another social impact that mining brings in. The nature of mining work means that migration becomes an essential survival strategy for people engaged in this sector especially in places where mining is considered to be the most important economic activity.⁸ Climatic factors, market fluctuations and changes in demand for minerals mean that mining locations change regularly.⁹

7 Bhanumathi Kalluri, Ravi Rebbapragada, 2009, *Displaced by Development- Confronting Marginalisation and Gender Injustice – The Samata Judgement – Upholding the Rights of Adivasi Women*, Sage Publications and Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, *India's Childhood in the "Pits"—A Report on the Impacts of Mining on Children in India*.

8 International Institute for Environment and Development (2002)- <http://www.iied.org/mmsd-final-report-breaking-new-ground-mining-minerals-and-sustainable-development> – <http://pubs.iied.org/pdfs/G00901.pdf>? Chapter 9: Local Communities and Mines, pp. 202.

9 Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, *India's Childhood in the "Pits"—A Report on the Impacts of Mining on Children in India*.

Though there is no data to show the extent of migration for mining and quarrying work in India, evidence suggests that migration in general is increasing, and the number of children involved below 14 years may be close to nine million.¹⁰

Other Socio Economic Impacts are

Increased insecurity

The benefits that a person or families working in mining companies and those who do not gives division which gives rise to insecurity. This insecurity changes the social dynamics of a society. The society is constantly under threat of being harassed by officials who could be from the government or by those of the mining companies.¹¹

Impact on cultural resources

Tribal communities in India consider certain landscapes such as hills, rivers, forests etc. to be sacred. Mining projects have known to affect and tamper with these very sacred landscapes which then impacts the lives of these tribal communities. Mining in such areas can cause complete destruction of natural resources as well.¹²

Community breakdown

Communities and indigenous groups have ways of coping with social or natural disturbances or stress, including group solidarity, general trust of one's neighbours or leaders, unwritten social rules, strong family ties, cultural identity, and traditional leadership or governing structures. The mining company deliberately tries to disrupt and weaken a community's ability to organise effectively against them.

Increased vulnerability to violence and abuse

The mining areas have difficult living as well as working conditions. Mining companies often bring hundreds of single working men into the local community, giving rise to serious social and health problems. These difficult living conditions and insecurity added with availability of alcohol in mining areas give rise to social evils such as domestic violence, gambling etc. amongst workers as has been seen in many reports published world. Such areas are also prone to crimes which can trigger when the revenues from mining are not equitably shared. This can also aggravate inequalities within communities.¹³ Problems such as prostitution, drug abuse and crime has a deep relation to mining areas and creates a degrading social environment which have both direct and indirect impact on communities especially on children.¹⁴ Children as has been seen can very easily become prey to social evils such as prostitution and violence.¹⁵

As we spoke to the villagers, we discovered that there is no public health centre in the village, and no doctors that come here in recent years. Deliveries are often done at home, and infant mortality is extremely high. While there are only primary schools up to the third standard in the foothills, the villages in the hills have no educational facilities. Neither has NREGA been implemented, nor has FRA fulfilled its utility – many people we met and spoke to had either faced rejection or were waiting in line for pattas to their land. There has also been a major fall in agricultural productivity after the use of fertilizers in the region, and people here are unable to even afford to buy rice.

<http://www.samataindia.org.in/mici/attachments/article/30/Newsletter2.pdf>

10 Consortium for Research on Educational Access, Transitions and Equity, *Distress Seasonal Migration and its Impact on Children's Education*, May 2008, pp. 1, 2.

11 Oxfam Australia-*Impacts of Mining* – <https://www.oxfam.org.au/explore/mining/impacts-of-mining/> Accessed on 17.01.13.

12 Environmental Law Alliance Worldwide – *Guidebook for Evaluating Mining Projects EIA- Chapter 1: Overview of mining and its impacts*, pg 17- <https://www.elaw.org/files/mining-eia-guidebook/Chapter1.pdf>

13 International Institute for Environment and Development- <http://www.iied.org/mmsd-final-report> *Breaking New Ground: Mining, Minerals and Sustainable Development* – <http://pubs.iied.org/pdfs/G00901.pdf>? Chapter 9, pp. 202.

14 ILO, *Eliminating Child Labour in Mining and Quarrying*, 12 June 2005, p. 11.

15 *ibid*.

PART 1

ADDRESSING MINING



MINING LAWS

While activists working on mining issues need to know about child rights and how to help children, it is equally important that those working with children in mining areas are familiar with mining processes and laws.

Some Other Aspects of Mining

- Mining activities have increased exponentially since the beginning of economic liberalisation on early nineties. The National Mineral Policy (NMP), 1993, reiterated in the NMP 2008, initiated the liberalisation process. Within two decades of liberalised economy much in contrast with our constitutional objectives, mining as a sector has come to be associated with scams, conflict, violence and ecological degradation. The policies initially aided the state and later, corporate entities as promoters of economic growth and private profitability by rapidly subtracting the mineral wealth of the country. Various actors have invested in the sector, including national and international companies, banks, equity funds, and even 'round tripping' of illegal funds. In the 53 long years from 1947–2000, 326,001,000 metric tonnes of iron ore was produced, whereas only within 11 years, i.e. from 2001 to 2011 a huge quantity of 545,746,323 metric tonnes of iron ore was produced. It is now predicted that the market for Indian minerals will almost double its current size within next fifteen years.
- Mining of major minerals was the sole domination of Public Sector Undertakings (PSUs) until the nineties, when the country embarked on an economic policy of privatisation and globalisation. New means are being devised for the exploitation of resources and to hand over the wealth of the nation for small, short term gains. The rapidity with which global interests have usurped these resources is reflected in stock markets worldwide, while on the ground, mining rapidly devours lands and livelihood of so many communities as we speak. In the case of coal, the private sector was the key player until coal was nationalised in the seventies, only to once again be opened up to private investors. In the last decade and as of today, nearly 20 per cent of the known coal reserves of the country have been handed over the private sector.
- Most minerals resources are co-terminus with the forest and schedule areas. Mining has become a major source of destruction of the environment and livelihoods of local communities and has reached alarming proportions. The impacts are widespread and diverse, hampering—the socio-economic and cultural fabric of vastly different geographies and ecosystems—from the tropical rainforest of western ghats to the stone quarries of Rajasthan, from coal mines in Meghalaya to beaches sands in Kerala. Even the Constitutionally protected schedule areas (Schedule V and VI), where, ironically, the mineral wealth of the country rests, have not been spared of this blight.
- The Samata Judgement in 1997 provided a semblance of hope for the tribal communities. Mining could no longer remain an economic activity to further the profits of a few. The judgement wanted the States to seek consent of communities, to be an enabler of better development of mining regions by making local communities partners in development of mines

and allied activities and to lease it away to companies. But unfortunately, neither state nor the Central governments have sincerely implemented the guidelines in the past fifteen years. On the contrary, they found ways to encourage corporates by undermining the judgement through a slew of administrative and legal facts.¹⁶

- **Mines and Minerals (Development and Regulation) Act, 1957**, - (MMDR Act, Regulation and Development Act) (Bill Proposed, to be discussed in Monsoon Session).
 - Mineral Concession Rules, 1960 under MMDR Act, 1957, outline the procedures and conditions for obtaining a Prospecting License or Mining Lease.
 - Mineral Conservation and Development Rules, 1988 under MMDR Act, 1957 provides guidelines for ensuring mining on a scientific basis, while at the same time, conserving the environment.
- **National Mineral Policy revised in 2008 highlights some directions**
Sustainable Development Framework for mining, displacement issues – but keeps mineral as an economic element while aggressively looking at future policy directions to achieve economic development of mineral sector. Also mentions safety of workers.
- **Mines and Minerals (Development and Regulation) Act, 2009 (draft)**
Initiated Sustainable Development Framework for the Mining Sector – through stakeholders consultation, international best practices, country concerns etc.
- **MMDR Bill 2010 mentions**
 - Profit sharing / equity to make people stakeholders to tackle illegal mining, local development
 - Independent tribunals should be established for mining related complaints
 - Consultation with Gram Sabha at different stages of mining should be taken
 - Sustainable development framework for overall physical and social environment
 - National / State Mineral Fund to be used for the development for the local communities
- **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2014**
Mining requires land which has to be acquired from people living on it leading to their displacement. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act came into effect on 1 January 2014. This law replaced the 120 year old Land Acquisition Act of 1894.

The provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the government acquires land for its own use, hold and control, including for Public Sector Undertakings and for public purpose, which includes acquisition of land for mining.

The Act recognises women, who are widowed, divorced, deserted by their families as separate family and have been mentioned (as a spouse and sister) in the definition of family under Section 3. They are also entitled for rehabilitation and resettlement.

The Act mentions that the government, while doing the Social Impact Assessment, will consider the impact of the project on schools and educational or training facilities, anganwadis, children parks clearing taking into consideration the requirements of children. The Act mentions that infrastructural facilities such as Anganwadi will be provided to resettled population to ensure supplementary nutritional services for mothers and children. Schools and playground are also to be provided by the concerned authorities.

The Act provides for inclusion of a representative of women residing in the affected area apart from officers of the appropriate government in the Rehabilitation and Resettlement Committee.

¹⁶ Mining Matters – Environics Trust and Oxfam India.

Under the Act¹⁷—

1. A consent is required from the landowners in order to acquire a land
Section 2 of the Act provides for seeking prior consent of at least 80 per cent of the affected families where private companies are concerned and consent of at least 70 per cent of the families affected where land is being taken for public-private partnership projects.
2. Section 3 of the Act clearly defines who an affected family, displaced family is and it also clearly states that people such as the guardians of minors and those affected with disability or of unsound mind shall be 'entitled to act' on their behalf. Also, widows, divorcees and women deserted by their families shall be considered under separate families as well.
3. The law provides for carrying out a Social Impact Assessment study along with seeking consent for acquiring a land (Section 4). The law provides that if an Environmental Impact Assessment study if any, will be carried out simultaneously and shall not depend upon the completion of the Social Impact Assessment study.
4. All acquisitions will require rehabilitation and resettlement to be provided to the people affected.¹⁸
5. To safeguard food security, the Act says that no irrigated multi-cropped land shall be acquired. In case such a land is acquired as a last resort, an equivalent area of culturable/ cultivable wasteland has to be developed for agricultural purposes or an amount equivalent to the value of the land has to be deposited with the concerned government for enhancing food security.
6. Section 11 provides for publication of a notification when a land is required for public purpose by the government. The notification shall be published in two daily newspapers of which, one will be a regional language paper, in the Panchayat, Municipality or Municipal Corporation and in the offices of the District Collector or the Sub-divisional Magistrate. The notification shall carry a statement on the nature of requirement and reasons for the displacement of affected families of persons. The Act also mentions that no person shall make any transaction of the land till such time the proceedings prescribed are completed.
7. According to the Act, the Collector will pass the Rehabilitation and Resettlement Awards for each affected family in terms of the entitlements provided in the Second Schedule.
8. Where land proposed to be acquired is equal to or more than one hundred acres, the concerned government shall constitute a Committee under the chairmanship of the Collector to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of the Rehabilitation and Resettlement scheme and to carry out post-implementation social audits in consultation with the Gram Sabha in rural areas and municipality in urban areas.

What can We Do in Mining Areas ?

Communities that live in and around the mines face many problems on a day to day basis from blasting, dust, transportation, flooding and related activities apart from other human rights violations.

The MMDR Act or other related acts actually have no redressal mechanism for the affected communities and solutions have to be found through various other laws like Environment Protection Act, CrPc, by writing to the statutory authorities and pressurising through the media and other democratic means and finally approach the court of law at local, high court and Supreme Court level.

17 <http://dolr.nic.in/dolr/downloads/pdfs/Right%20to%20Fair%20Compensation%20and%20Transparency%20in%20Land%20Acquisition,%20Rehabilitation%20and%20Resettlement%20Act,%202013.pdf>

18 <http://www.prsindia.org/billtrack/the-land-acquisition-rehabilitation-and-resettlement-bill-2011-1978/>

Now India can boast of having the first ever green tribunal that can also be approached.

Therefore an aggrieved person or community has to initially gather information about the particular mine using RTI act after which write to the statutory authorities at district, state and national level and build up a file in the government on the particular violation which is leading to the problem, most often it involves technical details and requires the assistance of some experts and ground work before a case can be made out.

It is interesting to note that Gujarat is the only state that has a grievance redressal committee at state and district level to curb illegal mines in the state of Gujarat vide industries and mines department resolution number

MCR -102010-SCA-7690 dated 17.01.2011

The broad framework for any concerned person/organisation confronted with a mining issue can be summed up as follows:-

- Gather information about the particular mine or lease or activity using the right to information act
- Analyse the information with the help of qualified experts
- Write to the concerned department and statutory/district authorities seeking clarification and action
- Pressurise the district and state authorities by meeting them with a delegation of the affected communities / children / women whatever the case may be
- Approach the media and issue press statements, organise a visit by local/district media and then state and national media
- Organise a fact finding by eminent personalities or district or state officials, political parties including opposition parties
- Hold seminars and organise innovative campaigns to highlight the issue through democratic methods and use the electronic media and social networking sites
- Approach the court of law if a clear case of legal violation exists, one can divide the issues based on the type of violations for e.g., Human rights violation, environmental etc
- If you are dealing specifically with child related issues use the mechanisms layed out in the next section

Some suggested sources for information on mining in India

Mines Ministry | <http://www.mines.nic.in>

Indian Bureau of Mines | <http://ibm.nic.in/>

Central Board of Excise & Customs (CBEC) | <http://www.cbec.gov.in/grievance.htm>

Directorate General of Mines Safety | <http://www.dgms.gov.in/>

Ministry of Environment and Forests | <http://moef.nic.in/>

Directorate of Public Grievance | <http://dpg.gov.in/>

Institutions Child Protection | <http://socialwelfare.icdsbih.gov.in/Institution/Institution.php?grpID=2&SubGroupID=1>

PART 2

CHILDREN AND MINING



CHILDREN AND MINING: WHERE IS THE CONNECT?

Direct and Indirect Impacts of Mining on Children

1. **Increased morbidity and illnesses:** Mining children are faced with increased morbidity. Children are prone to illness because they live in mining areas and work in mines.
2. **Increased food insecurity and malnutrition:** While almost 50 per cent of children in many states across the country are malnourished, mining areas are even more vulnerable to child malnutrition, hunger and food insecurity.
3. **Increased vulnerability to exploitation and abuse:** Displaced, homeless or living in inadequate housing conditions, forced to drop out of schools, children become vulnerable to abuse, exploitation and being recruited for illegal activities by mafia and even trafficking.
4. **Violation of right to education:** India is walking backwards in the mining affected areas with respect to its goal of education for all. Mining children are unable to access schools or are forced to drop out of schools because of circumstances arising from mining.
5. **Increase in child labour:** Mining regions have large numbers of children working in the most hazardous activities.
6. **Further marginalisation of *adivasi* and *dalit* children:** Large-scale mining projects are mainly in *adivasi* areas and the *adivasi* child is fast losing his/her Constitutional rights under the Fifth Schedule, due to displacement, land alienation and migration by mining projects. As with *adivasi* children, it is the mining *dalit* children who are displaced, forced out-of-school and employed in the mines.
7. **Migrant children are the nowhere children:** The mining sector is largely dependent on migrant populations where children have no security of life and where children are also found to be working in the mines or other labour as a result of mining.
8. **Mining children fall through the gaps:** Children are not the responsibility of the Ministry of Mines that is responsible for their situation and the violation of their rights. The mess that is created in the lives of children as a result of mining has to be addressed by other departments like child welfare, education, tribal welfare, labour, environment and others. Without convergence between various departments and agencies, the mining child falls through the gaps. All laws and policies related to mining and related processes do not address specific rights and entitlements of mining children.

Children are affected Directly and Indirectly by Mining

Among, the direct impacts are:

- The loss of lands leading to displacement and dislocation,
- Increased morbidity due to pollution and environmental damage,
- Consistent degeneration of quality of life after mining starts,
- Increase in school dropouts and children entering the workforce.

The indirect impacts of mining are often visible only after a period of time. They are:

- Fall in nutrition levels leading to malnutrition
- Increase in diseases due to contamination of water, soil and air, and
- Increase in migration due to unstable work opportunities for their parents.

India has a lot of laws, policies and programmes for children. But studies conducted in eight states have shown that mining children are unable to benefit from them. Very few laws provide any protection or relief to mining children in particular or address their specific situation created as a result of living and even working in mining.¹⁹

The paradox of mining lies in the fact that, although they live in the mining areas, neither the mining industry nor the mining administration is legally responsible for ensuring the rights and development needs of children. This is because the principal job of the Ministry of Mines is to mine and not look into the requirements of children.²⁰

The mess that is created in the lives of children as a result of mining is now addressed by other departments like child welfare, education, tribal welfare, labour and others, which makes for an inter-departmental conflict of interest and leaves ample room for ambiguities in state accountability. In this process, the child is being forgotten. Thus, impacts of mining on children have technically few legal redressal mechanisms to bring the multiple players to account.²¹

Child labour in mining and quarrying is in virtually all cases, a Worst Form of Child Labour because of the extent and severity of the hazards and the risks of death, injury and disease. There is no justification—poverty included—for children to work in this sector. It is literally a back breaking work. It is relatively straightforward, therefore, for governments to legislate to include mining and quarrying activities on their legally-binding, national hazardous child labour lists; thereby making them prohibited activities for children.²²

Childhood vanishes in mining pits of India

Although there is no data to show the extent of migration for mining and quarrying work in India, evidence suggests migration is rising and the number of children in mining below 14 years may be close to 9 million.

“These children are torn away from their education and social networks. Estimates suggest that somewhere between half a million to 12 million migrant labourers work in small-scale mines in India,” the report says. “Regular streams of new migrants leave the tribal belts of Bihar, Orissa, Chhattisgarh, Jharkhand and other states to seek work in the mines.”

Article: Childhood vanishes in mining pits

Author: B. Vijay Murty, *Hindustan Times*,
March 18, 2010

<http://www.hindustantimes.com/India-news/EastIndia/Childhood-vanishes-in-mining-pits-of-India/Article1-520671.aspx> Accessed on 27 December 2012

¹⁹ Dhaatri Resource Centre for Women and Children – Samata, Vishakhapatnam, HQ: Centre for Child Rights, New Delhi, 2010, India's Childhood in the “Pits”—A Report on the Impacts of Mining on Children in India.

²⁰ Ibid.

²¹ Ibid.

²² Eliminating Child Labour in Mining and Quarrying, Background Document, International Programme on the Elimination of Child Labour (IPEC), 12 June 2005, accessed on 10 September 2012.

Children growing up in mining areas need special attention. This guide helps to identify the laws that can be used to help mining children realise their rights. This Community Resource Guide (CRG) is designed for activists and community based workers who come across vulnerable children in the mining areas every day but are not familiar with the laws and rights of children.



TIPS

Look around you in the mining area in which you work and note down all the violations of child rights that you can recognise.

See how you can address them with the help of this guide and use the laws mentioned here.

MINING CHILDREN AND THE LAW

Who is a Child?

According to international law, a 'child' means every human being below the age of 18 years. This is a universally accepted definition of a child and comes from the United Nations Convention on the Rights of the Child (UNCRC), an international legal instrument accepted and ratified by most countries.

The UN convention on the rights of the child, which was adopted in 1989 and ratified by India in 1992, defines a child as an "every human being below the age of 18."

India has always recognised the category of persons below the age of 18 years as distinct legal entity. That is precisely why people can vote or get a driving license or enter into legal contracts only when they attain the age of 18 years.

Marriage of a girl below the age of 18 years and a boy below 21 years is prohibited under the Prohibition of Child Marriage Act, 2006.

Moreover, after ratifying the UNCRC in 1992, India changed its law on juvenile justice to ensure that every person below the age of 18 years, who is in need of care and protection, is entitled to receive it from the State.

There are, however, other laws that define a child differently and are yet to be brought in conformity with the UNCRC.

Different laws have different ages:

Indian Majority Act, 1875	18 years
Juvenile Justice (Care and Protection) Act, 2000 as amended in 2006	18 years
Prohibition of Child Marriage Act, 2006	18 years for girls and 21 years for boys
Mines Act, 1952	18 years
Factories Act, 1948	15 years
Child Labour (Regulation and Prohibition) Act, 1986	14 years
Right of Children to Free and Compulsory Education Act, 2009	6–14 years

A key challenge in India for those who work on children's rights is the confusion around the definition of a child in terms of age.

The Indian Majority Act 1875 makes 18 years the general age of majority in India. The Juvenile Justice (Care and Protection of Children) Act 2000 as amended in 2006, follows this principle to define a child as persons below the age of 18 years. The Mines Act 1952 also defines an adult to have completed his eighteenth year.²³

In August 2012, the Union Cabinet of India approved the Child & Adolescent Labour (Prohibition) Bill putting a blanket ban on employing anybody below 18 years in hazardous occupations and processes.²⁴ It is still to become a law.

However, other laws passed in India cause confusion, with many laws defining a child as only up to 14 years of age. For example, the Child Labour (Prohibition and Regulation) Act 1986 defines childhood as only up to 14 years of age. The Factories Act, 1948 defines a child to be someone who has not completed his fifteenth year of age.²⁵ This has also been witnessed with the passing of the Right of Children to Free and Compulsory Education Act in 2009, which guarantees the right to education only to children between 6–14 years.

As organisations and individuals committed to the rights of all children, this guide covers rights of children up to the age of 18 years.

Why must We Focus on Children's Rights?

- Although children constitute close to half the world's population, they form one of the most vulnerable and marginalised sections of our society.
- Children are rarely seen as individuals with rights and decision-making capabilities, and are often seen merely as dependents. As a result children's voices often go unheard.
- Children's voices are also silenced by norms of culture and tradition which make children highly susceptible to negligence and abuse.
- The fact that children lack political voice and do not form a 'political constituency' further contributes to their marginalisation.
- Due to their particular vulnerable position, children are not able to effectively report or resist a violation of their rights.
- Child rights violations can often threaten the child's chances of survival or can severely stunt the child's development over the long-term.

What are Children's Rights?

Every child has a right to childhood and therefore a right to survival, protection, development and participation. Even though all human rights apply equally and fully to all human beings irrespective of age, gender, race, ethnicity, economic and social standing, sexual orientation etc., children's rights have been articulated separately in the United Nations Convention on the Rights of the Child (UNCRC) in order to protect the interests of the child and make sure that children's rights are not sacrificed in the interests of the larger community.

²³ The Mines Act, 1952.

²⁴ Bachpan Bachao Andolan, India moves to ban all forms of Child Labour, August 28, 2012, <http://www.bba.org.in> accessed on 15 September 2012.

²⁵ The Factories Act, 1948 http://labour.nic.in/upload/uploadfiles/files/ActsandRules/Service_and_Employment/The%20Factories%20Act,%201948.pdf. Accessed on 10.10.12.

Always Remember:

- All persons below the age of 18 are children.
- Childhood is a process through which every human being passes.
- Children have different experiences during childhood.
- Children are right holders.
- All children need to be protected from abuse and exploitation.
- They are entitled to support as right holders.
- The State and its government is obligated to realise the rights of children.
- All adults can play a role in achieving children's rights but state is the primary duty bearer.
- All rights are common for adults and children.
- Some rights are defined specifically for children (in International Conventions such as the UN Convention on the Rights of the Child and also articles in the Constitution and special laws).
- While all children have all rights, some children need special attention because of their situation.

Children's Rights are Broadly Divided into Four Categories

- Right to survival, food, nutrition and health care
- Right of children to education and development
- Right of children to be free from all forms of exploitation and abuse and be protected in all situations
- Right of children to inclusion and participation in decisions affecting their lives and respect for their views

All Children are not Equal

While generally speaking, children form a highly vulnerable category, it is important to note that all children are not equal. The children belonging to vulnerable and disadvantaged groups are even more vulnerable to violations of their Housing Rights. This vulnerability may be a consequence of their social, economic or ethnic background, mental or physical ability or where they live, and as such, need special attention. Their existing vulnerable situation becomes particularly more disadvantaged in situations of stress, caused by forced evictions or emergency situations or for that matter mining.

What Rights Do Mining Children have?

Mining children have the same rights as any other child in the country and it is important for all those who work on mining or child rights issues in the area, to be familiar with these so that they can advocate for their realisation.

The Indian Constitution, various national policies, assorted laws concerning children, and international legal instruments ratified by India, particularly the UN Convention on the Rights of the Child, 1989, which India ratified in 1992, provide a legal framework for ensuring children their rights to survival, development, protection and participation.

The National Policy for Children 2013, the National Plan of Action for Children 2005 along with the Eleventh and Twelfth Five Year Plan, lay down the roadmap for the implementation of such rights. These include the rights to be protected from exploitation and abuse and the right to free and compulsory education. But then these are for all children.

While all children need protection, because of their social, economic, or even geographical location, some children are more vulnerable than others and need special attention. These children are:

- Homeless children (pavement dwellers, displaced/evicted, refugees etc.)
- Migrant children
- Street and runaway children
- Orphaned or abandoned children
- Working children
- Child beggars
- Children of prostitutes
- Child prostitutes
- Trafficked children
- Children in jails/prisons.
- Children of prisoners.
- Children belonging to the Scheduled Castes & Scheduled Tribes
- Children affected by conflict
- Children affected by HIV/AIDS
- Children affected by natural disasters
- Children suffering from terminal diseases
- Children with disability.



TIPS

In this section the relevant laws for children are and how to use them will be discussed. Although it is not possible to discuss each and every law in great detail in this guidebook, an attempt is made to make the readers familiar with the basic rights addressed by existing child specific legislation and a few important provisions contained therein.

It is therefore imperative that those of us who recognise a violation must then attempt to either contact the right person or study the legal provisions to enable the child to access their entitlements or get justice. Consulting a specialised agency or a lawyer for further information and action would be advisable.

International Law

Guarantees for children's rights, like all other human rights, may be found in the following international human rights treaties:

- Universal Declaration of Human Rights (UDHR) (1948).
- International Covenant on Civil and Political Rights (ICCPR) (1966).
- International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).

In addition there are international treaties on rights of specific groups of people like women, children, indigenous people, refugees etc. Some of these include:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979).
- Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965).
- United Nations Convention on the Rights of the Child (UNCRC) (1989).

Being an international treaty specific to children's rights, this section will focus on the provisions in the UN Convention on the Rights of the Child, which address situations of mining children.

The UNCRC text can be divided in three parts²⁶

- Key Principles
- Specific Rights
- Ways in which these rights can be monitored

Key Principles

- The right to survival and development
- Respect for best interests of the child as a primary consideration
- The right of children to express their views freely in all matters affecting them
- The right of all children to enjoy all rights in the UNCRC without discrimination of any kind

Specific Rights

- The definition of children as all persons below the age of 18 unless the legal age of majority in the country is lower.
- Civil rights and freedoms, including the right to a name and nationality, to freedom of expression, thought and association, to access to information, and the right not to be subjected to torture.
- Family environment and alternative care, including the right to live with parents, to be reunited with parents if separated from them and to the provision of appropriate alternative care where necessary.
- Basic health and welfare, including the rights of disabled children, the rights to healthcare, social security, child care services and an adequate standard of living.
- Education and cultural activities, including the right to education, the aims of education and the right to play, leisure and participation in cultural life and the arts.
- Special protection measures covering the rights of refugee children, children in situations of armed conflict, children in juvenile justice homes, children deprived of their liberty and children suffering economic, sexual or other exploitation.

²⁶ From Save the Children 1999 reproduced in Enakshi Ganguly Thukral (ed), "Children in Globalising India, Challenging our Conscience", HAQ: Centre for Child Rights, New Delhi, 2002.

UNCRC and Children Displaced Due to Mining

While all articles in the UNCRC are indivisible and cannot be read independently of one another, the two that are of particular relevance vis-à-vis children displaced due to mining are:

Article 16 (1)

1. No child shall be subject to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 27

1. States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

General Comment 4 adopted by the UN Committee for Economic Cultural and Social Rights on Forced Evictions

The General Comment 4 entitled "The right to adequate housing," mentions that State Parties must "recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". The general comment sets out minimum core obligations of the State in the context of the right. These include legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.

General Comment 7 adopted by the UN Committee for Economic Cultural and Social Rights on Forced Evictions

Mining leads to forced evictions. The General Comment 7 encourages State Parties to ensure that "legislative and other measures are adequate to prevent and if appropriate, punish forced evictions carried out without appropriate safeguards by private persons or bodies."

TIPS



On the Internet, search for the all International Conventions that you think would have an impact on mining children and their communities.

Some of the websites you could look up are:

Child Rights Information Network- <http://www.crin.org>

United Nations Office of the High Commissioner of Human Rights <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>

Concluding Observations of the UNCRC Committee on India

“The Committee is concerned about the forced displacement of a high number of children and their families and the loss of their ancestral lands because of business operations. This particularly concerns children living in the area of the large scale Posco steel plant and port in the state of Odisha. There is also lack of information about safeguards in place to guarantee compliance with the Convention and international human rights standards.

In light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights and the United Nations “Protect, Respect and Remedy” Framework, accepted unanimously in 2008 by the Human Rights Council, the Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children’s rights. The Committee further recommends that the State party:

- (a) Establish a clear regulatory framework for the industries operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children’s rights;
- (b) Ensure effective implementation by companies, especially industrial companies, of international and national environment and health standards, effective monitoring of implementation of these standards and appropriately sanctioning and providing remedies when violations occur, as well as ensure that appropriate international certification is sought; and
- (c) Require companies to undertake assessments, consultations, and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts.”

Para 29-30, CRC/C/IND/CO/3-4

Indian Laws

Children’s Rights in the Indian Constitution

Under the Constitution of India all children have equal rights as citizens of this country. However there are also some articles that are specifically for children.

Constitutional Guarantees that are meant specifically for children include:

Right to free and compulsory elementary education for all children in the 6–14 year age group (Article 21 A)

Right to be protected from any hazardous employment till the age of 14 years (Article 24)

Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e))

Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))

The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years (Article 45).

What is clear that like all children across the country, mining children too must have their right to education and be free from exploitation and labour.

Besides, children also have rights as equal citizens of India, just as any other adult male or female:

- Right to equality (Article 14)
- Right against discrimination (Article 15)
- Right to personal liberty and due process of law (Article 21)
- Right against illegal arrest and detention (Article 22)
- Right to being protected from being trafficked and forced into bonded labour (Article 23)
- Right of minorities for protection of their interests (Article 29)
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46)
- Right to nutrition and standard of living and improved public health (Article 47)

The Constitution also lays down that under Article 15(3) the State must make special provisions for women and children. Keeping this in mind, there are several national laws and policies that address the different age-groups and categories of child.

National Laws

Special Laws

1890	Guardians and Wards Act
1948	Factories Act (Amended in 1949, 1950 and 1954)
1956	Hindu Adoption and Maintenance Act
1956	Immoral Traffic (Prevention) Act (Amended in 1986)
1956	Probation of Offenders Act
1960	Orphanages and Other Charitable Homes (Supervision and Control) Act
1976	Bonded Labour System (Abolition) Act
1986	Child Labour (Prohibition and Regulation) Act
1987	Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act
1989	Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act
1992	Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act
1994	Transplantation of Human Organ Act
1996	Persons with Disabilities (Equal Protection of Rights and Full Participation) Act
2000	The Juvenile Justice (Care and Protection of Children) Act (Amended in 2006)
2000	The Information Technology Act
2003	The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act
2006	The Prohibition of Child Marriages Act, 2006
2012	The Protection of Children against Sexual Offences

Let us now look at each right that mining children have and how we can effectively use the provisions of some of the above mentioned laws to benefit them.

THE YOUNG CHILD IN THE MINING AREA

Article 45 of the Indian Constitution promises that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

The largest programme to guarantee this is the Integrated Child Protection Scheme. Although this has not yet been recognised as a fundamental right by the Constitution, for the complete growth of a child we must try to ensure that there is fully functional *anganwadi* centre for children in our area.

The Mines Crèche Rules, 1966 mentions the crèches facilities should be provided for the children below age of 6 of women employed in the mines. There are clear guidelines given in this rule about provision such as structure, hygiene, facilities like bathroom, medical officer to be provided by the mine owner in crèches.

TIP

Contact your District Collector/ Magistrate and request for an ICDS centre.



Mining Children and Their Right to Education

Education for children is the first casualty for seasonal migrants or those displaced by mining. This goes simultaneously with their entry into labour. Most parents now want to send their children to school. Now that the Government of India has guaranteed education as a fundamental right, it is for all of us to ensure that all the mining children can access this right.

The main problem is the lack of education here. We are telling the government that we will give land and a building, but please give us a decent school. The mines can close anytime but if our children are educated, they can find a job elsewhere.

Source: Mineworker, Jethwai village, Jaisalmer district, Rajasthan, July 2009.

The Right to Education is a fundamental right for every child in the 6 to 14 year age group under Article 21 of the Constitution of India.

The Right of Children to Free and Compulsory Education Act, 2009 – This Act translates the Fundamental Right into a law. It gives the right to education to all children in the age group of 6–14 years.

Right to Free and Compulsory Education Act, 2009

- Emphasises on mainstreaming children into the formal school system
- Clearly defines 'free' to include uniforms, mid day meals, text books, etc
- Casts a duty on every parent/guardian to get their wards/children in the 6–14 year age group admitted into a school
- Places the compulsion of providing free elementary education on State
- Provides for establishment of neighbourhood schools
- Lays down various standards and norms for schools such as:
 - Teacher-Pupil Ratio is not to exceed 1:40 for primary classes (I-V) and 1:35 for middle school (VI – VIII)
 - Minimum 200 working days with 800 instructional hours in an academic year for primary classes
 - Minimum 220 working hours and 1000 instructional hours in an academic year for elementary classes
 - Minimum 45 working hours per week to be put in by the teachers. This includes time spent on preparation by the teachers.
 - No teacher can be engaged in non-educational activities other than Census, disaster relief and elections
- Provides for the reservation of 25 per cent seats in private schools for poor students who are to be provided with free education
- Prohibits the taking of capitation fee by the private schools as well as the screening of children who wish to take admission

What to do when there is a Violation of Children's Right to Education?

- **Contact the School Management Committee (SMC)** – Under Section 13 of the RTE Act, the functions of the SMC are clearly mentioned.
- **Contact the State Commission for Protection of Child Rights (SCPCR)** – The SCPCR can be informed about the violation of the RTE by means of a letter or a Complaint.
- **Contact the Right to Education Protection Authority (REPA)** in case the SCPCR has not been constituted (Section 25 (2) of RTE).

The SCPCR or the REPA has a certain mechanism to deal with complaints or violations as the case may be as prescribed under the ACT. The following section talks about setting up of a helpline to register complaints-

The Section 25 (1) of the RTE Act says the State Commission for Protection of Child Rights, or the REPA (Right to Education Protection Authority), as the case may be, shall set up a child help line, accessible by SMS, telephone and letter, which would act as the forum for aggrieved child/guardian to register complaint regarding violation of rights under the Act, in a manner that records her identity but does not disclose it;

(2) All complaints to the helpline should be monitored through a transparent 'alert and action' online mechanism by the State Commission for Protection of Child Rights, or the REPA, as the case may be.

- **Contact the National Commission of Protection of Child Rights –**
For those states which do not have their own SCPCR or REPA they can complain of violations of RTE to the NCPCR. 13 SCPCRs have been constituted so far in the states of

Assam, Bihar, Chhattisgarh, Delhi, Goa, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Sikkim, Tamil Nadu, Uttarakhand and West Bengal. In some states, the constitution of SCPCR is yet to be done while in some states the chairpersons and members are yet to be appointed. The list of SCPCR is attached in the Annexure.



TIPS

- Find out the redressal mechanisms under the RTE that are available in your state and establish contact with them
- Find out what are the violations of Right to Education that is taking place in your area
- If there are no schools or not enough schools make a complaint to the concerned authority available in your state. Make sure that it is a written complaint and you have taken a “receiving” stamped on the copy of your complaint.
- In case you find the case of an individual child whose right to education is being violated, the first step is to take him/her to the nearest school and admit the child. The school does not have the right to refuse admission.
- In case you are unable to get the child admitted, you can make a complaint to the authorities you have identified.
- You can also go to court, once you have exhausted all options of complaints.

RIGHTS OF CHILDREN IN NEED OF CARE AND PROTECTION AND IN CONFLICT WITH LAW

The children growing up in mining areas are often far more vulnerable to abuse and exploitation. There are working children, children whose parents are sick having been engaged in mining or living in the polluted environment around the mines. It is also been found that children from these areas are vulnerable to being trafficked or forced into illegal activities bringing them into conflict with law. Apart from being effective in dealing with child labour in mining, the **Juvenile Justice (Care and Protection) Act, 2000**, can be effectively used for protecting the rights of such children.

This is also the law that enables you to help the children you may rescue from labour, or any other difficult situation such as abuse and exploitation.

Juvenile Justice (Care and Protection) Act, 2000 (hereafter JJ Act)

The Act defines a child as someone who has not attained the age of eighteen years.

This Act deals with two broad categories of children –

1. Children in Need of Care and Protection
2. Children in Conflict with Laws

Vulnerable child or a child needing care and protection:

Who are the Children in Need of Care and Protection under the JJ Act?

Some categories of children who need care and protection are –

- Working child
- Homeless child
- Victim of abuse and exploitation
- Having incapacitated parent
- Trafficked for labour and/or sexual purposes
- Abandoned, missing or runaway
- Mentally or physically challenged
- Mentally or physically ill
- HIV/AIDS affected or infected
- Begging
- Street Children

In case we come across any child who is either vulnerable to abuse or exploitation or find a child who is in need of care and protection have to be produced before the Child Welfare Committee in the district.



Vulnerable child or a child needing care and protection:

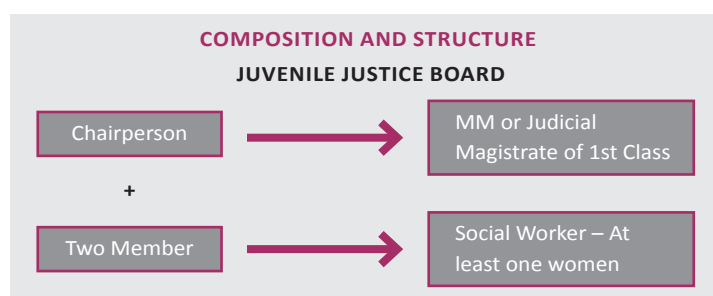
Under the JJ Act each district has to have a Child Welfare Committee (CWC).

The Committee under the Act functions as a Bench of Magistrates. Together they are vested with the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

Child in Conflict with Law

Mining Areas are known for being crime prone. Children are sometimes drawn into illegal activities.

If a child is apprehended for being in conflict with the law, or committing an offence, it must be ensured that they are produced before the **Juvenile Justice Board of that District and NOT in the adult district courts.**



Juvenile or child in conflict with law is one who is alleged to have committed an offence and has not completed 18th year of age as on the commission of such offence.

Such a child must not be tried by an adult court nor kept in police lock-up or adult jail

TIPS



- You must know where the CWC and JJB in your district sit.
- You must identify the members and have their contact numbers at all time and also publicise it.
- In case you find child in need of care and protection, you can take child to the nearest Child Welfare Committee. (This can be any of the categories of children who have been identified in the list in the box above).
- You can dial 1098 and take the help of Child Line to rescue the child or help the child.
- The first place for a child is the family and the CWC should consider placing a child in an institution only when the family is incapable of looking after the child.
- Remember if a child is involved in any act that is illegal, he/she must be produced before the JJB and not in an adult court and must not be placed in an adult jail.
- Identify the Juvenile Police officer in the *thana*. Make sure that in any case involving a child it is the Juvenile Police Officer who is present.

CHILD LABOUR AND MINING

Children are found working in mining areas in mining and quarrying as also in other related occupations such as ferrying and loading, collecting waste or ores or in other kinds of labour around the mining areas. They are also found to be working in other occupations like hotels, domestic work.

Displacement of population and forced migration, leading to families falling into indigence, force children into work to support their families. However, poverty is not the only reason for this.

The global economy in which we live ensures that child labour suppresses wage levels; children continue to be employed in this sector because companies can pay them less than adults to carry out the same work. Privatisation and informalisation of labour has directly led to increase in child labour, particularly in the mining industry which keeps the workers impoverished and indebted in a vicious trap.

We can act against child labour and ensure their right to education. For this we must use a combination of laws at our disposal:

- The Child Labour (Prohibition and Regulation) Act, 1986
- The Juvenile Justice (Care and Protection of Children) Act, 2000
- The Bonded Labour System (Abolition) Act, 1976
- Children (Pledging of Labour) Act, 1933
- The Mines Act, 1952 ²⁷

“Inside the mine everything is very fragile. Even the falling of a small rock can cause death sometimes. People from outside cannot imagine what the hell is inside the mine!” These are the words of 16-year old Muzzammal Haque who works in a coal mine in the Jaintia Hills, Meghalaya. He is yet another example of the bonded child labour in the various coal mines in the Jaintia Hills on which the National Human Rights Commission has asked the government of Meghalaya to submit a report.

The National Human Rights Commission acted suo motu based on several media reports and registered a case – Case No. 22/15/3/2010. After two days of issuance of the NHRC’s notice, the Jaintia Hills district authorities in Meghalaya found on September 8 that 222 children were working in the coal mines. The Government reported that the children were from Assam, Nepal and Bangladesh



http://twocircles.net/2010oct14/coal_mining_meghalaya_child_labourers_%E2%80%98ratholes%E2%80%99.html

Constitutional Guarantee–
Right to be protected from any hazardous employment till the age of 14 years **(Article 24)**

²⁷ The New Mines Amendment Bill states – If a person below eighteen years of age is employed in a mine in contravention of Section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.

Let us now look at each of these laws that provide children their right to non-employment separately –

The Child Labour (Prohibition and Regulation) Act, 1986 (CLPRA)

Prohibits the employment of children below the age of 14 in mines (underground and underwater) and collieries (Schedule Part A).

It also prohibits the employment of children in certain mining related processes listed in Schedule B²⁸.

What to do when there is a violation of the Child Labour (Prohibition and Regulation Act, 1986?

1. **Use of Section 14 under CLPRA:** Section 14 of the act says that whoever employs child to work till the age of 14 shall be punishable with imprisonment for a minimum term of 3 months to one year and or a fine.
2. **Contact any Police Officer:** Section 16 of the Act says a complaint of violation of the Child Labour Act can be filed before any Police Station or a government inspector.
3. **Contact Inspectors Appointed by State Governments:** The Child Labour act authorizes central and state governments to appoint inspectors charged with securing compliance with the act.
4. **Contact Labour Inspectors in-case State has not Appointed Inspectors:** In-case the state appointed Inspectors as per the Child Labour Act are not appointed, the Labour inspectors can be contacted. A written complaint can be submitted to them.

Punishment and Compensation under the Child Labour (Prohibition and Regulation) Act, 1986

- Under the hazardous industries prohibition, the Child Labour Act prescribes imprisonment of three to twelve months or a fine of 10,000 to 20,000 rupees for first convictions.
- If second offences are committed then a punishment with a mandatory six months to two years in prison shall be given.

The Juvenile Justice (Care and Protection of Children) Act, 2000

Important-Section 26. This section deals with exploitation of a juvenile or a child employee. The section mentions that whoever procures a child for hazardous employment—in this case it could be Mining,—keeps him in bondage and withholds his earning for his own purpose shall be handed over an imprisonment of a maximum of 3 years and will also be liable to payment of a fine.

The Bonded Labour System (Abolition) Act, 1976

Not all child labour that we see is bonded labour. But there may be a possibility that the working child we see is also a bonded child. In Rajasthan, for example, it has been found that the high incidence of injuries and illnesses amongst mineworkers, and the lack of any health care or insurance, meant that adult workers frequently got into debt, as they had to borrow from the contractors during difficult times. They were then forced to provide free labour whilst they pay off these debts. This form of bondage often becomes inter-generational, with children working to pay off the debts of their parents when they are unable to do so. Therefore when we see a working child, we must investigate to see if this child may also be a bonded child.

28 Mica-cutting and splitting; manufacture of slate pencils (including packing); manufacturing processes using toxic metals and substances, such as lead, mercury; fabrication workshops (ferrous and non – ferrous); gem cutting and polishing; handling chromite and manganese ores; lime kilns and lime manufacturing; stone breaking and crushing; etc.

What to do when you find children who are bonded?

Contact the District Magistrate. Whenever one find any child working as a labour more specifically if the child or his family is found to be working as bonded labour, a complaint can be sent to the District Magistrate or District Collector. The DC or the DM as the case may be, is responsible for identifying cases of bonded labours, freeing them as well as initiate prosecution under the Bonded Labour Act.

The Bonded Labour System (Abolition) Act, 1976 prohibits forcing a person into bonded labour for debt repayment. The act extinguishes all debt agreements and obligations. It prohibits creation of any new bondage agreement and discharges bonded labourers from all debts for which they were bonded. Compelling a person to render bonded labour is punishable under the law. This includes punishment for parents who pledge their child or other family members to work as a bonded labourer.

Scheduled Castes/Scheduled Tribes Prevention of Atrocities Act, 1989

This act defines any kind of forced labour, including bonded labour, as an 'atrocities' if the victim is a member of a scheduled caste or tribe. Committing an 'atrocities' is punishable with up to five years imprisonment and fine.

Children (Pledging of Labour) Act, 1933

Children (Pledging of Labour) Act, 1933 declares any agreement by a parent or guardian to pledge the labour of a child below 15 years of age for payment or benefit other than reasonable wages, to be illegal and void. It also provides punishment for such parent or guardian as well as those who employ a child whose labour is pledged.

The Mines Act, 1983

We know that a lot of children are employed in the mines. The Mines (Amendment) Act, 1983 applies to all mines and it does not allow employment of children. This is therefore an important law for us to use, it however allows apprentices and other trainees, not below sixteen years of age, to work, under proper supervision, in a mine or part thereof by the manager provided that, they have the approval of a chief inspector or an inspector shall be obtained before they are allowed to work.

Section 40 – No person below eighteen years of age shall be allowed to work in any mine to work in any mine or be a part thereof.



TIPS

- If you find a child working in a mine you can file a complaint with the police using the Child Labour (Prohibition and Regulation) Act, 1986, Section 26 of the Juvenile Justice (Care and Protection) Act, 2000 and the Mines (Amendment) Act, 1983.
- Investigate and find out if the child is also a bonded child labour. If that is the case then also use the Bonded Labour Act, 1976.
- Please also keep in mind the age of children as per the various acts that we spoke about in this section. If the child working in a mine is under 14, then the CLPRA will apply along with JJ Act and other laws. Whereas if he/she is above 18 the CLPRA will not apply.
- In case the child has to be rescued, contact the Child Welfare Committee (for details on this see relevant part on Juvenile Justice Act in this guide).
- Call Childline on 1098 in your district and seek their help. Always rescue the child with the help of childline in your district and the police.

MINING AND TRAFFICKED CHILDREN

Many children in the mining areas are migrants from other states, having come alone or with their families. Many of these children are trafficked children. They may be working there as child labour or may have been forced into commercial sex.

Trafficking for Commercial Sexual Exploitation

The most important law for dealing with trafficking for prostitution or commercial sexual exploitation is the **Immoral Traffic Prevention Act, 1956 (ITPA)**. ITPA declares trafficking of minors for prostitution illegal and provides enhanced penalties for offences involving children and minors.

Under this law, 'prostitution' means the sexual exploitation or abuse of persons for commercial purposes, and it is this exploitation that is punishable. ITPA treats the following as offences:

1. Running or managing of a brothel or the allowing of premises to be used as a brothel,
2. Living on the earnings of the prostitution of others,
3. Procuring, inducing or taking of a person for the purpose of prostitution,
4. Detaining a person in a brothel, and
5. Seducing or soliciting for the purpose of prostitution.

Besides contemplating specialised machinery for its enforcement, the Act envisages a comprehensive scheme for rescue, protection and corrective treatment of prostitutes. Section 21 deals with establishment of protective homes by state governments.

Relevant provisions under IPC

- Exposure and abandonment of child under twelve years, by parent or person having care of it (Section 317);
- Outraging the modesty of a woman (Section 354);
- Kidnapping/abduction of a woman for illicit intercourse and use of criminal intimidation or any other method of compulsion (Section 366);

- Procure of minor girls for illicit intercourse (Section 366A);
- Importation of girls to force them into illicit intercourse (Section 366B);
- Kidnapping/abduction to subject a person to unnatural lust of another person (Section 367);
- Trafficking of persons (Section 370);
- Exploitation of a trafficked minor (Section 370A);
- Selling minor girls for the purpose of prostitution (Section 372);
- Buying minor girls for the purpose of prostitution (Section 373);
- 'Rape' (Section 375) and 'unnatural offences' (Section 377). Sexual intercourse with a woman with or without her consent when she is under 16 years of age amounts to rape and the offender is punishable up to imprisonment for life;
- Word, gesture or act intended to insult the modesty of a woman (Section 509);

Trafficking for Labour

India has a plethora of legislations to address the child labour issue. But the real problem today is trafficking and that is not dealt with by the existing labour legislations. Laws that come closest to deal with a situation of trafficking of children for labour are as follows:

All the laws have been discussed in the section on protecting children from labour. In addition we must use the relevant provisions under IPC.

- Buying or disposing of any person as a slave (Section 370);
- Habitual dealing in slaves (Section 371);
- Unlawful compulsory labour (Section 374).

Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant child labour, 2008

The Government of India has developed Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant child labour, 2008 issued by the Ministry of Labour, Govt. of India.²⁹

The following are the some of the essential points of this Protocol:

- Every rescued migrant or trafficked child labour, including bonded child labour, has to be presented before the Child Welfare Committee.
- The CWC shall be the guardian of the rescued child who are empowered to take decisions in the best interest of the child and shall have the power to secure all relevant information and documentation in order to plan the rehabilitation plan of the child.

There are some special and local laws that can be used to book particular forms and purposes of trafficking. They include³⁰:

- The Andhra Pradesh Devadasi's (Prohibition of Dedication) Act, 1988 or Karnataka Devadasi (Prohibition of Dedication) Act, 1982
- The Bombay Prevention of Begging Act, 1959
- The Bonded Labour System (Abolition) Act, 1976

²⁹ Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour, 2008, Ministry of Labour, Govt. of India, <http://pblabour.gov.in/Pdfs/protocol.pdf>. Accessed on 01.01.2013.

³⁰ Ministry of Women and Child Development and HAQ: Centre for Child Rights – Child Protection – A handbook for teachers Chapter – Child Protection and the Law, pp. 47.

- The Child Labour Prohibition & Regulation Act, 1986
- The Prohibition of Child Marriage Act, 2006
- The Guardianship and Wards Act, 1890
- The Hindu Adoption and Maintenance Act, 1956
- The Immoral Traffic Prevention Act, 1956
- The Information Technology (Amendment) Act, 2008
- The Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989
- The Transplantation of Human Organ Act, 1994 and the Transplantation of Human Organs Act Bill 2009
- The Goa Children's Act, 2003 (applicable only in the state of Goa).



TIPS

- A trafficked child or a child rescued from prostitution is a victim and not an offender.
- Remember a trafficked child is also a child in need of care and protection and so must be produced before the CWC.
- The child needs support in the form of counseling, psycho social support and rehabilitation.
- Follow-up is very important.

MINING CHILDREN AND SEXUAL ABUSE

Children, as young as few months, and even a few days old, are known to be victims of child sexual abuse. While girls are more vulnerable to being sexually abused, against popular belief, boys too are victims. Children with mental and physical disabilities are indeed at greater risk of abuse due to their vulnerability. Child sexual abuse cuts across gender, class, caste or ethnicity and happens to both urban and rural children.

A child may be abused in any of the following ways:

- child sexual abuse is when someone behaves towards a child in a sexual manner.
- It is a sexual activity against a child's wish.
- The child does not completely understand the act and does not give consent.
- Sexual acts involve both touching and non-touching behaviour.
- It involves the abuse of authority/power and betrayal of trust.
- Mostly it is kept a secret.
- It is coerced – the abuser uses tricks, bribes, threats.
- It usually happens in a place familiar to the child.
- All children are equally at risk – irrespective of caste, class, gender and culture.
- Rape or penile penetration is not the only form of sexual abuse.
- Both girls and boys can be a victim of rape and other forms of sexual abuse.
- Eve teasing and sexual harassment is also sexual abuse.
- Showing dirty movies and pictures to a child or using children for pornography is a serious form of sexual abuse even if it does not lead to any bodily harm

In the past few years, there has been a steady increase in sexual crimes against children. The Ministry of Women and Child Development in 2007 conducted a study³¹ on child sexual abuse in India. According to this study over 50 per cent of the children have experienced some form of sexual abuse. This study also mentions that 53.22 per cent of children had faced one or more forms of sexual abuse.³²

31 Ministry of Women and Child Development, Study on Child Abuse India: 2007 <http://wcd.nic.in/childabuse.pdf> Accessed on 25.01.13.

32 Ministry of Women and Child Development, Study on Child Abuse India: 2007 <http://wcd.nic.in/childabuse.pdf>, pp., vi. Accessed on 25.01.13.

There are legal provisions in the Indian Penal Code that can be applied in case of child sexual abuse. In addition in 2012 the Government of India has passed a special law to deal with child sexual abuse called the Protection of Children from Sexual Offences Act, 2012 (POCSO) has come into force from 14 November 2012. This law is the most comprehensive law on child sexual abuse in the country. Besides this, because of the increasing use of children in pornography, it is important to also use the Information Technology Act 2008 in cases in which children have been abused for pornographic purposes.

The following are the legal provisions to be used in cases of child sexual abuse:

Indian Penal Code

- **Section 376** – Punishment for rape
- **Section 377** – Unnatural Offences
- **Section 509** – Word, gesture or act intended to insult the modesty of a woman
- **Along with 354** – Assault or criminal force to woman with intent to outrage her modesty

Information Technology (Amended) Act, 2008- Section 67B. This section prescribes punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in an electronic form.

Protection of Children from Sexual Offences Act, 2012 (POCSO)

Offences covered under the POCSO Act are:

- **Penetrative Sexual Assault (Section 3) – This includes –**
 - (a) Penetration by penis into the mouth, vagina, urethra or anus of the child or makes the child do so with him or with any other person.
 - (b) Inserts any object which, for example can be a pencil or stick or a part of body such as finger into the vagina, urethra or anus of the child or makes the child do so with him or with any other person.
- **Sexual Assault (Section 7)** – This includes touching a child or making a child touch a person's private parts such as the vagina, penis, anus or breast with sexual intent or does any other act with sexual intent without involving penetration.
- **Sexual Harassment (Section 11)** – This section includes using words, gestures, exhibits or makes a child exhibit his/her body parts, showing objects to a child, threatening to use any form of media, contacting a child through electronic, digital or other means, following a child repeatedly and enticing a child for pornographic purposes and having sexual intent.
- **Child Pornography (Section 13)** – This includes using child in any form of media (including print, electronic, computer or any other technology) for purpose of sexual gratification.

The Offences of Sexual Assault and Penetrative Sexual Assault are deemed to be aggravated under certain circumstances:

- When committed by a person in position of trust or authority like family member, police officer, teacher or doctor
- When the child is under 12 years of age
- Gang assault
- Repeated assault
- When the child is mentally or physically disabled
- Use of deadly weapons, fire, heated substance or corrosive substance
- When the child suffers grievous bodily harm/becomes pregnant/gets infected by HIV
- Causing the child to strip and parade naked, etc.

Under the POCSO 2012, stringent penalties are prescribed for all offences and penalty is higher for an aggravated offence. The Act also has made punishable, an attempt to commit an offence even if it is unsuccessful.

Abetment of offence has been made punishable as well.

Abetment

Any person who assists or helps someone commit a sexual offence against a child will also attract punishment under the POCSO Act

The Act very clearly prescribes for mandatory reporting with punishment for failure to report the offence that has been committed.

How to report a case of sexual offence against a child under POCSO?

- When a person comes to know of a sexual offence against a child that has been committed or there is an apprehension that an offence may be committed, an immediate complaint needs to be made at Special Juvenile Police Unit (SJPU) or local police station (Section 19).
- Complaint can be given orally or written. If given orally, Police officer will record it in writing and read out to informant. He/She will also assign an entry number and record it in the register.
- On receipt of such complaint, F.I.R. needs to be registered and a free of cost copy will be given by Police to complainant/ informant.
- A child who is a victim can be the complainant and the Police is bound to assist and help the child make a complaint.

The Act prescribes Child Friendly procedures at all stages of reporting and investigation:

- Recording statement of a child shall be at the residence of the child or at the place of his/her choice, preferably by a woman police officer not below the rank of sub-inspector.
- The statement of the child has to be recorded as spoken by the child.
- Provision for presence of parents/person in whom the child has trust and confidence.
- A Police officer will not be in uniform while recording the statement of the child.
- Assistance of an interpreter or translator or an expert as per the need of the child.
- Assistance of special educator or any person familiar with the manner of communication of the child in case the child is disabled.
- In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
- Child should not come face to face with the accused.
- Police has to inform complainant about any updates of progress of the case in court and assist/help as and when required.
- No child can be detained in the police station in the night for any reason.

Section 33 (7)-Identity of the child shall not be disclosed at any time during the course of investigation or trial.

Points to remember about Trial of the case –

- The Act provides for establishment of Special courts for speedy trial of offences.
- Child cannot be called repeatedly to the Court to testify.
- In-camera trial of cases shall be done.
- The defence lawyer cannot cross examine the victim directly but will have to pass the questions to the Special court which shall in-turn put those questions to the victim.
- Evidence of child shall be recorded in the Court within a period of 30 days from date of taking cognizance of offence. If there is any delay, court will record the reason in writing.

- Trial shall be completed by the Court, as far as possible, within a period of one year from date of taking cognizance of the offence.
- The Magistrate shall provide a copy of final report to child and his/her parents and/or his/her representatives.

Highlights of the Act

- The burden of proof in serious offences is shifted to the accused.
- The Central Government and State Governments are to ensure that periodic training is imparted on matters relating to the implementation of the provisions of the Act to concerned officers including police.
- Guidelines are to be prepared by State Governments for use of non-governmental organisations, professionals and experts to be associated with the pre-trial and trial stage to assist the child.
- The Act makes provisions for compensation to child for relief and rehabilitation.
- POCSO provides for free legal aid for the victim.
- The NCPCR and the SCPCR are as per the law required to monitor implementation of provisions of this Act across the country.



TIPS

- Children who are victims of sexual abuse might need to be identified.
- They may or may not be expressive about their trauma or the incident. Handling such children needs extra care and a trained counsellor could be of help.
- In cases of aggravated sexual assault, immediate medical attention is required.
- The community and social workers working with a community, both, need to be sensitised towards identifying children who have been sexually assaulted and also dealing with them.
- Most important – when a case of child sexual abuse is registered, sections from Indian Penal Code, POCSO and IT (Amended) Act must be applied wherever applicable to strengthen the case.

MINING AND CHILD MARRIAGE

Child marriage is a major social concern in India and is a gross violation of Children's rights—whether it happens to a girl or a boy—as it denies the basic rights to health, nutrition, education, freedom from violence, abuse and exploitation and deprives the child of his/her childhood.

In India, nearly half (43 per cent) of women aged 20 to 24 are married before the age of 18. An Information sheet released by UNICEF India in November 2011 highlights that there has been a decline in the incidence of child marriage nationally and in nearly all states (from 54 per cent in 1992-1993 to 43 per cent in 2007-2008), but the pace of change remains slow.³³

More than half of the women in India are married before the legal minimum age of 18. By contrast, men in the same age group get married at a median age of 23.4 years. Sixteen percent of men aged 20-49 are married by age 18 and 28 percent by age 20.

Source: Summary of Findings, NFHS-3

Parents of girl children especially, feel that by marrying of their child, they will get rid of the 'burden' and see it as a way to secure the girl's future economically. Some also feel that it is a means of ensuring safety of the girl child from sexual violence as well as 'unwanted male attention'.³⁴ These can be some of the reasons for the prevalence of child marriage in the country till date.

Important National Commitments on Child Marriage are:

- Convention on the Rights of the Child (1989), ratified by India in 1992 – Articles 19, 24, 28 and 34.
- Convention on the Elimination of All Forms of Discrimination against Women (1979), ratified by India in 1993 – Article 16.
- Prohibition of Child Marriage Act, 2006 Compulsory Registration of Marriages Act, 2006.
- The Dowry Prohibition Act, 1961.
- Right to Free and Compulsory Education Act, 2009.
- Eleventh Five – Year Plan 2007 – 2012 calls for the 'compulsory registration of marriages and verification of age at the time of marriage'.³⁵

³³ UNICEF India, Child Marriage Fact sheet – http://www.unicef.org/india/Child_Marriage_Fact_Sheet_Nov2011_final.pdf. Accessed on 18.01.13.

³⁴ Ministry of Women and Child Development, HQ: Centre for Child Rights, Unicef – Handbook on The Prohibition of Child Marriage Act, 2006.

³⁵ India's Eleventh Five-Year Plan 2007 – 2012, Volume II: Social Sector, Chapter 6: Towards Women's Agency and Child Rights of Children.

- National Plan of Action for Children 2005 sets the goal of eliminating child marriages by 2010 (Sections 6.1.4 and 7.1.3).

The Prohibition of Child Marriage Act, 2006 (PCMA, 2006) prohibits marriage of any girl below the age of 18 years and of any boy below the age of 21 years in India excepting for the state of Jammu and Kashmir.

Under this Law

1. The solemnisation of child marriages is a cognizable and non-bailable offence. (Section 15)
2. Child Marriage Prohibition Officers (CMPOs) are to be appointed in every state to prevent child marriages, ensure protection of the victims as well as prosecution of the offenders. (Section 16)
3. The Courts have the power to issue injunction for prohibiting child marriages from taking place. (Section 13)
4. Child marriages will be declared null and void if the injunction prohibiting a child marriage from taking place is violated/contravened or, if the child is taken away from their lawful guardian by enticement, force or use of deceitful means or is sold or trafficked for the purpose of marriage (Sections 12 and 14)
5. The law lays down penal provisions for those who solemnise child marriages (Section 10)
6. The CMPO and the District Collector are responsible for creating sensitisation and awareness in the communities. (Sections 13 (4) and 16 (3) (d))

Whom to Contact if there is a Violation of this Law?³⁶

The following persons can be contacted to aid in prohibition of child marriage-

- Child Marriage Prohibition Officer
- District Magistrate
- First Class Judicial Magistrate or Metropolitan Magistrate
- Police
- Family Courts

How to report Child Marriage(s)?

Any person can report an incidence of child marriage before or after it has been solemnised to the following persons –

- The Police
- The Child Marriage Prohibition Officer or such persons as may be appointed to assist him/her
- First Class Judicial Magistrate or Metropolitan Magistrate
- Child Welfare Committee or a member of the Child Welfare Committee set up under the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006
- Child Line – Call 1098
- District Magistrate
- District Child Protection Officer

³⁶ Handbook on the Prohibition of Child Marriage Act, 2006.

- Also any person(s) called upon by the State government to assist the Child Marriage Prohibition Officer has to be present. These could include -
 - A respectable member of the locality with a record of social
 - service, officer of the Gram Panchayat or Municipality, officer
 - of the government or public sector undertaking, office bearer
 - of any non-governmental organisation.
- A District Child Protection Officer who is responsible under the ICPS can also be contacted.

Where can a Complaint of Child Marriage be Filed?

Since solemnising a child marriage is a cognisable offence, a complaint has to be made in the nearest police station.

A complaint can also be filed with a Judicial Magistrate of First Class or a Metropolitan Magistrate. The Magistrate can also take suo-motu cognizance of a child marriage without a complaint being registered.

Complaints can be either oral or written, in the form of a phone call, a letter or a telegram, e-mail, fax or a simple handwritten note duly signed by the complainant.



TIPS

- **Even if it is acceptable in the society we live, child marriage is a violation of child rights and it only leads to further violations.**
- **It is therefore important to stop child marriage.**
- **Mobilisation and awareness is the key to stopping child marriages.**
- **Identify who the child marriage prohibition officer in your district is.**
- **Complain to him/her as soon as you hear of a case of a prospective child marriage.**
- **Panchayats can play a big role in stopping child marriages.**

Integrated Child Protection Scheme (ICPS)

The Ministry of Women and Child Development (MWCD) in the year 2006 proposed the adoption of a new scheme called the Integrated Child Protection Scheme. This scheme was introduced in 2009–10. The Scheme incorporates other essential interventions, which aim to address issues which were, so far, not covered by earlier Schemes. It is based on the cardinal principles of ‘protection of child rights’ and the ‘best interest of the child.’³⁷

This is a very important scheme because it is aimed at creating a protective environment for children so that they do not become vulnerable to abuse and exploitation as has been identified in the preceding sections.

It is therefore important to have information about this scheme.

³⁷ Ministry of Women and Child Development, Integrated Child Protection Scheme – http://wcd.nic.in/icpsmon/st_abouticps.aspx. Accessed on 17.01.13.

Some points to remember about ICPS

ICPS essentially is a Government – Civil Society partnership scheme where the government has the primary responsibility for funding and development of ICPS.

- The scheme will provide for the setting up of CWCs and JJBs in each district
- Provision to meet the expenses of setting up of infrastructure
- ICPS is a mega scheme – provides budget for implementation of most programmes for children in difficult circumstances
- ICPS launched in the year 2009 – 10 by the Government of India
- ICPS brings several child protection programmes under one umbrella

The objectives of the ICPS broadly are:

- Institutionalise essential services
- Strengthen structures
- Enhance capacities of functionaries at all levels
- To create database and knowledge base for child protection services
- Strengthen child protection at family & community level
- To raise public awareness
- To ensure inter-sectoral response at all levels

Components of ICPS

- Institutional Care
- Non-Institutional Care
- MIS: Child Tracking System & Missing Children Website
- Emergency Outreach Services

Institutional Care – Institutions that are registered and licensed under the Juvenile Justice Act, 2000 are the ones which will provide Institutional care under ICPS. Open Shelters are required to be set up under this scheme as well. These open shelters will benefit the children living on the streets particularly.

Non-Institutional Care – This includes Schemes such as Sponsorship and Foster Care

The scheme calls for establishment of new bodies within a service delivery structure –

At the district level

- District Child Protection Society
- District Child Protection committee
- Sponsorship and Foster care approval committee
- Block level child protection committee
- Village level child protection committee

At the state level

- State Child Protection Society
- State Adoption Resource Agency
- State Child Protection committee
- State Adoption Advisory committee

The Components of ICPS are

- Institutional Care
- Non-Institutional Care
- MIS: Child Tracking System & Missing Children Website
- Emergency Outreach Services



TIPS

- The first step is to identify the Child Protection Officer of your district and be in touch with this person.
- It is useful to have information about the constitution of the Child Protection Societies identified above.

ENSURING CHILDREN ARE HEARD

One of the most important principles of the UNCRC is child participation (Article 12). It stresses on the importance of children to be heard in matters that matter to them or concern them. We as adults seldom consult children.

In the most obvious sense, participation means taking part. In order to participate, children need to have a meaningful role—to do something they think is worthwhile—to play a role that shows people care for them and overall to have their rights to dignity, safety, protection and comfort respected. Children have the right to freedom of expression, to form and join associations and to seek and receive appropriate information. These rights should empower children to bring about changes in their own lives, to build a better future.³⁸

States Parties shall assure to the child who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child

Article 12 UNCRC

Why should Children Participate?³⁹

There are benefits to children and young people themselves, to adults and to society when children participate:

- They become more clear about and understand their own wants and needs, in the light of the values of the community and the rights of the child.
- They explore the possibilities of their lives by being offered choices and having to prioritise them. Also by realising the constraints or limitations to their development or happiness children are able to come to terms with the inequities of life. And by being offered a way forward to overcome them and attain a happier life for themselves and others too.
- They also learn to consider the needs of others and to gain social skills as they negotiate, debate and problem-solve together.
- Their developmental needs are met, particularly the need for responsibility, respect and recognition, which increases their confidence and self-esteem.

³⁸ http://www.unicef.org/india/children_2740.htm

³⁹ Ibid.

- Because they are part of the process by which decisions are reached, they feel more committed to make those decisions work.

Remember what Child Participation is not⁴⁰

- Children do not participate by merely attending a function. That is decoration and not participation.
- They do not participate by being merely consulted when adults make all the decisions (For example, the children have no say concerning what questions they will be asked, how they will express their answers, and what will be done with the results.)
- They do not participate if they are manipulated so that they express views that are not genuinely their own, nor rooted in their own experience.
- It is merely tokenism if they are asked to give their opinion as representing 'the children' when they are not properly briefed nor have the opportunity to discuss the issues with the very peers they are meant to be representing.

The importance of involving children has now been recognised in India too in the National Plan of Action for Children, 2005 as well as in the Eleventh and Twelfth Five Year Plans of the Planning Commission of India. The National Commission for Protection of Child Rights too has recognised the need to listen to children.

The NCPCR believes that child participation is integral to addressing child rights. Therefore the Commission facilitates children's participation to enable children to access their rights and entitlements. The Rules of the Commission for Protection of Child Rights Act, 2005 under Rule 17(e) and (d) mandates that the Commission:

- Ensures that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives
- Promotes, respects and seriously considers the views of children in its work and in that of all government departments and organisations dealing with children

Children's participation can occur within five categories: governance of organisations, alliances and networks, schools, local and national governance. But the most important level is at the local level—in the family, in the school, in the community and in the *panchayats*, as these closest to the children's own context.

The Concerned for Working Children (CWC) organised the first Children's Grama Sabha in Keradi, a Panchayat in the Udupi District of Karnataka in the year 2002. CWC is a pioneering organisation in child labour, children's rights and civil society participation with an emphasis on children's participation. www.workingchild.org

'Makkala Grama Sabhas' are especially meant for children and are modelled on the adult Gram Sabhas. They are essentially a meeting between the local government and all the young citizens who are its constituency. During this meeting, children interact directly with the local government. In addition to responding to children and reporting on actions taken, the local government also presents the status of children's rights in the village to the children and the entire community.

In 2007 the Karnataka government, through its Rural Development and Panchayat Raj Department issued a circular and made it mandatory for all the elected members of the 5653 Gram Panchayats of Karnataka State to conduct Children's Grama Sabhas to 'listen' to their young citizens once a year and be accountable to them.

40 http://www.unicef.org/india/children_2740.htm

It is therefore important that we too should ensure that mining children have a right to speak in matters that concern them and that they are heard. We can do this by encouraging children to:

- Form children's groups or clubs where they meet and exchange ideas.
- Be part of village education committees that are supposed to be set up.
- By encouraging children to participate in meetings concerning community concerns including prospective displacement, rehabilitation etc.
- Giving them space in *gram sabha* meetings as has already been made apart of the system in Karnataka.

- 6. Delhi Commission for Protection of Child Rights**
 Address | 5th Floor, ISBT Building, Kashmiri Gate, New Delhi
 Phone | 011-23862685/92/93 Fax: 011-23862684
 Email | dcpcr@hotmail.com
 Name and contact details of Chairperson | Shri Arun Mathur | 09717402333
- 7. Goa Commission for Protection of Child Rights**
 Address | 3rd Floor, Sakhardande Apartment, Dr. Dada Vaidya Road, Panaji, GOA
 Phone | 0832-2421870 Fax: 0832-2221353
 Email | gscfpocr@yahoo.in
 Name and contact details of Chairperson | Ms. Sameera S. Kazi | 09822121705 | samirakazi@rocketmail.com
- 8. Gujarat State Commission for Protection of Child Rights**
 Address | Sector-19, Block No 5, 8th Floor, Old Sachivalya, Gandhinagar-382010
 Phone | 079-23255669, 079-23255678
 Email | gscpcr@gmail.com
 Name and contact details of Chairperson | Dr. Rameshwari Pandya | 9898128128 | amurt40@hotmail.com
- 9. Haryana Commission for Protection of Child Rights**
 Address | Bays No. 49-52, Sugar Federation Building, 2nd Floor, Sector-2, Panchkulla, Haryana
 Phone | 09780052409
 Email | scpcrhry@gmail.com
 Name and contact details of Chairperson | Ms. Savitri Dhaka | 09780052409 | savitrydhaka@hotmail.com
- 10. Himachal Pradesh Commission for Protection of Child Rights**
 Address | Naish Villa, Estate Annexe-II, Dogra Bhawan, Lower Jakhu, Shimla, Himachal Pradesh – 171002,
 Phone | 0177-2645178
 Email | shyamadogra@yahoo.com
 Name and contact details of Chairperson | Smt. Shyama Dogra | 09459288219
- 11. Jharkhand State Commission for Protection of Child Rights**
 Address | Collectorate Building, A Block, 1st Floor, Room No. 103/104, Kachari, Ranchi-834 001 Jharkhand
 Phone | Not Available
 Email | cp.jscpcr@gmail.com
 Name and contact details of Chairperson | Smt. Roop Laxmi Munda | 09939372800 cp.jscpcr@gmail.com
- 12. Karnataka State Commission for Protection of Child Rights (KCPCR)**
 Address | 4th Floor, Krishi Bhawan, Nrupthunga Road, Bangalore-560001
 Phone | 080-22115291/92
 Email | kscpcr@gmail.com
 Name and contact details of Chairperson | H.R. Umesh Aradhya | 9886177311
- 13. Kerala State Commission for Protection of Child Rights**
 Address | SreeGanesh, T.C. 14/2036, Behind Olympic Association Building, Vanross Junction, Kerala University P.O., Thiruvananthapuram-695034
 Phone | 0471-2325602/03/2518373
 Emails | keralachildrights@gmail.com; cpkescpcr@gmail.com
 Name and contact details of Chairperson | Ms. Neela Gangadharan | 09446448846

- 14. Madhya Pradesh State Commission for Protection of Child Rights**
 Address | 59, Narmada Bhavan, 4th Floor, Jail Road, Arera Hills, Bhopal-462002,
 Madhya Pradesh
 Phone | 0755-2559900/03/34/05 Fax: 0755-2559905
 Email | mpcpcr@gmail.com
 Name and contact details of Chairperson | Ms. Usha Chaturvedi | 09425008744
- 15. Maharashtra Commission for Protection of Child Rights**
 Address | 3rd Floor, Govt. Transport Service Building, Sir Pochkhanwadi Road, Worli,
 Mumbai-400032
 Phone | 022-24920879 Fax: 022-24920896
 Email | mscpcr@gmail.com
 Name and contact details of Member Secretary | Shri. A.N. Tripathi | 09869039054
- 16. Manipur Commission for Protection of Child Rights**
 Address | Office of MCPCR, Old Guwahati High Court Complex, North AOC, Imphal,
 Manipur-795001
 Phone | Not Available
 Email | mcpcrmanipur@gmail.com
 Name and contact details of Member Secretary | Shri. A Nabachandra Singh | 9436026468
- 17. Nagaland State Commission for Protection of Child Rights**
 Address | Res: Post Box No. 979, Kohima, Nagaland
 Phone | Not Available
 Email | meilapongener@yahoo.co.in
 Name and contact details of Member Chairperson | Smt. Meilemla Pongener | 09436000290
 meilapongener@yahoo.co.in
- 18. Odisha State Commission for Protection of Child Rights**
 Address | Quarter No. 1, Type – A, Unit-V, Bhubaneswar – 751001
 Phone | 0674-2394041, Fax: 0674-2394043
 Emails | oscpcr.od@nic.in; oscpcr2012@gmail.com
 Name and contact details of Member Chairperson | Dr. Sruti Mohapatra | 09437013312 |
 sruti_m@hotmail.com
- 19. Punjab State Commission for Protection of Child Rights**
 Address | Forest Complex, 4th Tower, 2nd Floor, Sector-68, SAS Nagar, Mohali, Punjab
 Phone | 0172-2740811 Fax: 0172-2664533
 Emails | oscpcr.od@nic.in; oscpcr2012@gmail.com
 Name and contact details of Member Chairperson | Mr. Swaran S. Salaria | 09892722222
 salaria@whitehotels.in
- 20. Rajasthan State Commission for Protection of Child Rights**
 Address | 2, Jal Path, Gandhi Nagar, Jaipur-302015, Rajasthan
 Phone | 0141-2713602/2709319/2227750
 Email | rscpcr.jaipur@gmail.com
 Name and contact details of Member Chairperson | Shri Khemraj | 09414049401
 khemraj-1985@yahoo.com
- 21. Sikkim Commission for Protection of Child Rights**
 Address | Lower Secretariat, 31-A, National Highway, Gangtok-737101, Sikkim
 Phone | 03592-208217 Fax: 03592-201325
 Email | yousa.lachenpa@gmail.com
 Name and contact details of Member Chairperson | Smt. Manita Pradhan | 03592203217

22. Tamil Nadu Commission for Protection of Child Rights

Address | 183/1, Periyar EVR Road, Poonamalli High Road, Kilpauk, Chennai-600010
 Phone | 044-26426421/26427022/26421359
 Email | scpctrn@gmail.com
 Name and contact details of Member Chairperson | Smt. Saraswathi Rangasamy
 09444961000

23. Tripura Commission for Protection of Child Rights

Address | Directorate of Social Welfare & Social Education, Government of Tripura, Ujan
 Abhoynagar, Agartala-799005
 Phone | 0381-2326033/2323980
 Emails | dswe_agt@yahoo.com; info@tripurainfo.com
 Name and contact details of Member Chairperson | Ms. Roopa Ganguly | 9863022774

24. Uttarakhand Commission for Protection of Child Rights

Address | Nanda Ki Chowki, Suddhiwala, Vikas Nagar Road, Dehradun – 248007
 Phone | 0135-2775813-16/2775909
 Email | scpcr.uk@gmail.com
 Name and contact details of Member Chairperson | Mr. Ajay Setia
 09411112030, 09811515283

25. West Bengal Commission for Protection of Child Rights

Address | DL-231/4, Sector-II, Saltcity Lake, Kolkata-700106
 Phone | 033-23592339 Fax | 033-23592339
 Email | wbscpocr@gmail.com
 Name and contact details of Member Chairperson | Shri Ashokendu Sengupta | 09831103761
 ashokendus@gmail.com



HAQ: Centre for Child Rights

B-1/2 Malviya Nagar
New Delhi-110017



Samata

Dabbanda Village, Gandigundam Post,
Mamidilova Panchayat, Anandapuram Mandal,
Visakhapatnam, Andhra Pradesh-531173