

Government has totally failed. What prosperity have you brought to this country? Now you say that because of poverty they have to go and work and that is why you are regularizing child labour.

Now, Sir, you are infringing the Fundamental Right guaranteed in the Constitution under article 21. Therefore, Sir, I oppose this Bill. I would request the Minister to apply his mind even at this moment and do away with the exemption which has been given to the schools run by the Government to employ the children even in the processes that have been banned. Thank you.

ANNOUNCEMENT RE. STATEMENT TO BE MADE BY THE MINISTER OF STATE FOR HOME AFFAIRS

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): I have to inform honourable Members, that Shri P. Chidambaram, Minister of State in the Ministry of Home Affairs, would make a statement in the House today at 4 p.m. on a query made yesterday during the discussion on the Calling Attention Notice regarding the security lapses at Rajghat on 2nd October, 1986.

SHRIMATI BIJOYA CHAKRAVARTY (Assam): Sir, I have given my name.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): I will be calling you. We are not concluding the discussion. I just made an announcement.

SHRIMATI BIJOYA CHAKRAVARTY: I am sorry.

THE CHILD LABOUR (PROHIBITION AND REGULATION) BILL, 1986— *contd.*

SHRIMATI ELA RAMESH BHATT (Nominated): Mr. Vice-Chairman, Sir, I deeply appreciate the good intention of the Ministry in bringing this Bill. However, with great regret I have to oppose this Bill.

I oppose this Bill because it is unconstitutional, because it is unreal, because it is inadequate, insufficient, incomplete because it touches only ten per cent of the children while more than eighty per cent of the children who are engaged in agriculture and who are rural are almost untouched by this Bill and also because it is against the development policies of the Government.

Sir, my first point is that article 24 forbids the employment of any child below 14 years in any factory or mine or other hazardous jobs. Article 45, which is a Directive Principle, states that the State shall endeavour to provide, within a period of ten years, free and compulsory education for all children until they complete the age of 14 years. We also have article 23, which comes under the heading "Right against Exploitation" prohibiting traffic in human beings and *begar* and other similar forms of forced labour. In the well-known *Asiad* case, forced labour was interpreted to mean any labour offered for wages below the minimum wages. The logic of the judgment was that no person would offer oneself for labour below the minimum wage unless forced by compulsion of economic circumstances. If this is true for adult workers, then is it not true for a child worker? "Child labour" by definition is forced labour and, therefore, it violates article 23. So, the Bill that we are discussing now is basically unconstitutional and it is also against the spirit of the Constitution. It also fails to fulfil the promises given by the Constitution. My second point is that the Bill has been watered down. It has watered down the definition of 'hazardous'. The definition is inadequate. Only fourteen occupations and processes are listed in the Schedule. Industries like glass, brass and many others are not included in it. Moreover, the Constitution speaks of hazardous employment, while the Bill speaks of hazardous processes, which is against the Constitution again, because it will allow a child to work inside a hazardous factory on the plea that the process in which the child is working is not hazardous.

The other watering down is, although the Constitution says nothing of the kind,

[Shrimati Ela Ramesh Bhatt]

under the Bill child will be allowed to work in hazardous processes if the work is being done at home or in the Government assisted training or production centres or programmes. This is under Section 3. It is impossible to see how hazardous work seems safe, either because it is done at home or because it has got the Government assistance or subsidy. The two notorious industries that will get the exemption are the carpet weaving and fire works and explosives.

My next point is, looking at the very poor record of the existing Child Labour Act, 1938 and its implementation, it is so clear that this Act will also be not implemented. All of us, who have worked with the organised and unorganised labour, are familiar with various regulatory legislations, including the Factories' Act, Minimum Wages Act, Bonded Labour Act, Contract Labour Act, Inter-State Migrant Labour Act. To us it is a common knowledge that in the case of such laws, the only guarantee of their implementation is neither the laws in question nor the army of inspectors, but the organised strength of the workers. Surely, the drafters of the Bill do not visualise children forming their trade unions.

Taking the specific example of the Contract Labour (Abolition and Regulation) Act, 1970, with which I am more familiar, this Act was intended firstly to abolish contract labour and also to provide facilities and protection where it would not be abolished. In fact, since 1970, Contract labour far from being on the way out, has increased all over the country. The Government and the public sector are the biggest culprits in this matter. For various reasons, the Contract Labour Act has not abolished contract labour, and by seeking to regulate it only delays its abolition.

In the case of child labour, the issue is simpler. Children must be given their basic rights guaranteed by the Constitution.

Part III of the Bill regulates the conditions of work of children. It proposes, for example, the child should have a one hour rest after three hours of work and shall not work for more than six hours a day. He will have a weekly off and overtime etc. Let me say frankly that none of these will be ever implemented. It is quite clear from the record of implementation of laws pertaining to the unorganised labour. All that the Bill will do is to legitimise the child labour without offering any protection to the child. It is to be noted that under Section 16 of the Bill, the age of the child is to be certified by the prescribed medical authority. This certificate will be the conclusive evidence of the child's age. I feel sure that this provision will be very easily misused and little children will continue working.

Under Section 17 of the Bill, the Government appoints Inspectors for the purpose and the Inspector will be deemed as public servants within the meaning of Indian Penal Code. This means that no affected person can take the Inspector to court for dereliction of duty without the permission of the Government, in which case there is no public control of the activities of the implementation of this Act. Sir, although the Government has been talking of the necessity of providing welfare facilities to working children such as food, medicare, education to the children, in other forums, there is no reference to them in the Bill. So once again, there is no positive protection to the child's rights to minimum requirements. It is easier to enforce a Government programme.

To return to 'hazardous', I have already expressed my surprise that how hazardous process should become safe, if it is performed at home or done under Government subsidy or aid? The idea of allowing these two exemptions is to allow children to be trained in certain crafts. Children working for other people in any industry have no record of becoming owners of their own factories. At the age of 14 or 15 when they are discharged from the work, when they are unwanted as they

are no more children they become unskilled labourers. And all these skills that they have acquired are totally wasted. The children in Mizapur Carpet have come from families of bonded labour and again cutting stone and digging earth they have to return to the same socio-economic status. There is no effort in the Bill to rehabilitate all these children in self-employment schemes.

It is significant that child labour in India is mainly drawn from the vast pool of Scheduled Castes and Scheduled Tribes who also are the people from whom our bonded labour comes. Even with home-based workers, let us not glorify their crafts, most of them are working in marginal crafts and are in the state of semi-starvation. The craft based traditional education type will also confirm and condemn a child in his caste for ever. A carpenter will not teach a cobbler's son—a cobbler will not teach a potter's son. Girls will never get individual existence or training. So while our daughters will join engineering and medicine, their daughters will always remain wife of a potter or a cobbler.

Then my next point is allowing child labour at home is a way of beating Minimum Wages Act. I do not want to open the Pandora's box or the whole question of implementation of the Minimum Wages Act. But still I feel if this Minimum Wages Act is implemented sincerely in this country, half of the problem of the poverty of child labour will be solved.

My last point is that the Bill also goes against the overall Government policy of development, namely, policy of small family norm, policy of eradication of illiteracy and policy of eradication of bonded labour. I strongly feel that the continuance of child labour undermines and defeats all our family welfare efforts. As we know, when children are available, the employers prefer them to grown-ups. For parents in the poverty situation children's income is a big support amounting to 23 per cent of the total family income. If we want the family planning to succeed,

the adults must go to work and children must go to school.

Similarly, our literacy campaign will not be successful till the children go to work instead of schools. We are talking of night schools for such children which is totally impractical. Working children are exhausted by the end of the day's work. I urge upon the Government to bring forward a Bill that put every child between 5—14 years in the school for at least a fixed time of 2-3 hours a day as well as providing them with a mid-day meal. You will say there will be colossal cost. Costs will be much less than being an illiterate nation, with a growing family size with members engaged in forced labour. We are talking of future citizens and not of colonial subjects.

I may submit that for the poor, future is a meaningless concept. Life has not yet taught them to think differently. But the Government cannot take shortsighted, limited view, by bringing such piecemeal legislation. The Government with all the Five Year Plans must be thinking of not only today's problems but in terms of future direction. It is not enough to pass it on to deal with larger problems. Child labour is a major problem and the Government must take a wholistic perception.

Is it not shameful that 36 years after the Constitution be enacted, we have been still debating Child Labour Bill. The only way to stop child labour is to ban it, to make it unattractive, uneconomic for employers to engage children. Penalise those who persist, subsidise those who switch over to adult labour.

When 18 million children will be pulled out of work, no employer is going to stop his work. They will have to take adults. Whether it is to mind cattle or make fireworks. The scene of total disaster painted by some is a false alarm. Wherever there is unemployment of adults, the child labour prevails. When we say child is our future hope of India, we mean all children, not just the 3 per cent who go to the Universities today.

[Shrimati Ela Ramesh Bhatt]

To sum up, so far as the abolition of child labour is concerned, there is no case for a new Bill, but only a case for more amendments, more stringent definitions, punishments, penalties, procedures.

In these circumstances, the proposed Bill can only perpetuate Child Labour, instead of abolishing it. While strongly opposing this Bill, I urge the Government to seriously implement the existing law regarding children, and withdraw the existing Bill.

SHRI P. A. SANGMA: Sir, I am grateful to hon'ble Members who have participated in this debate and who have expressed so much concern about the prevailing situation in our country with regard to Child Labour. They have not only spoken on the floor of the House for the sake of speaking but I am confident and I believe that many of my friends, who have spoken here have spoken from their personal experience that they have been witnessing the social evil.

Sir, as Mr. Bhandare pointed out for the last couple of years, a lot of debate has been going on in this country regarding the Child Labour. Lot of ideas have come out, lot of suggestions have come out and we, in the Ministry have taken into account the opinions expressed in various parts of the country by various types of people. We have tried to understand the problem and after studying it to a great depth, we have come forward with this Bill. We have recognised that a child labour is a very very serious problem in our country. We have recognised that it is not possible to eliminate Child Labour immediately. We have recognised that this problem cannot be tackled by the Government or the law alone. The people have to be involved. We have also recognised that there is need for mobilising public opinion to tackle this problem.

After having recognised all these facts, we have decided to approach this problem in three different ways. One, in areas where it has been prohibited by the

Constitution of India whereby the Constitution itself—Mrs. Bhatt and many other hon. friends referred to article 24 of the Constitution of India whereby the Constitution prohibits the employment of children below the age of 14 in any factory or mine or hazardous employment—we have decided to ban by this legislation employment in these areas. Where there are employments outside the purview of article 24 of the Constitution of India, in non-mine, non-factory and non-hazardous employments, looking at the conditions of the working children in our country, we have decided to regulate it rather than ban it. I know many hon. Members would have been very happy, would have been congratulating me, had I come to Parliament saying, "Child labour from tomorrow or from today onwards will be hereby banned". I know Mrs. Bhatt would have been very happy with such a Bill. But I know that if I come to this House saying that child labour will be banned in this country, I would be misleading the House, I would be cheating the nation, because I know it is not possible.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): Why not? If there is a will, there is a way.

SHRI P. A. SANGMA: It is not possible, I am admitting it.

SHRI B. SATYANARAYAN REDDY: The Government must take steps.

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Minister, are you taking similar instances even in other aspects also? Where reality demands that something has to be done differently, still we are going ahead with the hope that we will be able to meet the situation as we are convinced as the need for change. Simply because child labour exists, you cannot say that you want to regularise it. The intention of the Government and the people should be known. If you try to ban it even if you fail, ways could be found by which you could meet the problem. But to say that you will regularise it merely because there is a possibility of its continued existence is not a stand that should be taken.

[Shri P. A. Sangma]

days back I had occasion to take a meeting of the Secretaries of the Departments of Women and Child Welfare, Human Resource Development Ministry, the Ministry of Rural Development, etc. In fact, if you read the new Education Policy you will find that the new Education Policy itself has said that this education, formal or non-formal, vocational training, will also be extended to the working children. So this particular aspect is expressly found in the Education Policy itself. Therefore, it is not as if we have forgotten that part of it. I do admit that that part of it is the most important part. I had also said in the beginning that law alone will not be able to tackle this problem. Government alone will not be able to do it. We need to involve people. The honourable Member referred to Section 16. In Section 16 we have said that any person or an inspector is entitled to lodge a complaint. Here 'any person' means any citizen of this country including an association, a voluntary association, a trade union or any other social organisation. Everybody thinks that it is the duty of the inspector to go and inspect and file a complaint. No. It is because 4.00 P.M. we want to involve the people and this power of lodging a complaint and prosecuting a person who is contravening the provisions of this Act has been given to every citizen of this country and it is here that we want the co-operation of the people. You have raised a particular question about the family.

SHRI V. GOPALSAMY: About schools.

SHRI P. A. SANGMA: I will come to that a little later. Somebody raised the question of family also. What we mean here by this is that if a child helps the parents, you see, in his personal business or in his personal work or in his paddy fields, this Act will not cover that. But, if it is somebody else's children, then it will apply and not to his children. Children can help the parents. Similarly, in the case of vocational training also. I have to mention one thing. Today, in the ITIs, vocational training is given and there are

certain training courses prescribed where a student has to do some manual work in the course of his learning, in the course of his studies, and, in that case, this will not be made applicable. This is the meaning of this provision. In a school or in an institution, if a child has to undertake certain manual work as a process of his learning, then these provisions of the Act will not apply to that.

SHRI V. GOPALSAMY: If he is employed in hazardous processes, even then this will not apply?

SHRI P. A. SANGMA: No; they will not be employed. I am interpreting it in the right way.

SHRI V. GOPALSAMY: You are interpreting it. But the provision is not clear. The officials and others cannot interpret it like you.

SHRI P. A. SANGMA: Then, Sir, a lot of very good suggestions have come from the Members in the course of the debate. Some honourable Members have given a very good suggestion, a very valuable suggestion, that since the people really do not know the welfare measures that are being taken by the Government and the various new laws that are coming, we should publicize this law and explain this law through the television and radio. I accept this suggestion and I can assure the House that this will be done. I have also been cautioned by Shri Bhattacharjee that the people who are having a vested interest in child labour are very powerful. I am aware of their power and that is the reason why we did not take the power to ourselves, but, as I said, we have decided to share that power with the honourable Members of Parliament, with the legislators, with the trade unions and the various social organisations under clause 16 of the Bill. Only one thing I would like to point out. I would like to share my thoughts with the House. Why are the children working and why do the people prefer to employ children and not others? You see, on the one hand, we are talking about the unemployment of adults and, on the other, they are millions of children who are employed and the adults are not employed. What is the logic? The logic

Bill, 1986

At least that is not the way in which Parliament has to be told.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Please, let him speak.

श्री सूरज प्रसाद : दुनिया के अनेक देशों ने चाइल्ड लेबर को बैन कर दिया है। अगर वहाँ इसको बैन किया जा सकता तो यहाँ भी किया जा सकता है ?

श्री पी० ए० संगमा : ऐसा तो कानून बन सकता है। इसमें कोई प्रबलम नहीं है। 1970 में एक कानून बना था वांडेड लेबर के बारे में।

We have said, bonded labour is hereby abolished. But the fact remains that it exists. I am trying to be frank. I am admitting the fact (*Interruptions*)

SHRI V. GOPALSAMY: You regularise bonded labour also.

SHRI P. A. SANGMA: There is no question of regularising child labour. I have made my point very clear. As far as the nature of work which is prohibited by article 24 of the Constitution of India is concerned, in factories, in mines, in hazardous occupations, we are banning it. I am regulating it only in those areas which are not covered by the Constitution of India. Therefore, as I said, looking at the problem, we thought—whether you accept it or not—that these are the three ways to deal with this problem. One is to ban it in areas which are prohibited by the Constitution of India. The second is to regulate it in areas where it is not prohibited. And thirdly we have decided that we should deal with... (*Interruptions*)

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): You had your turn, Mr. Singh.

श्री राम अवधेश सिंह : इन्होंने कहा कि एक बार बैन हुआ था लेकिन बैन लागू नहीं हुआ। मैं यह जानना चाहता हूँ कि केवल बैन करने से तो नहीं होगा जब तक

प्लानिंग मिनिसट्री की प्रायर्टी नहीं होगी और उसका एलोकेशन आफ रिसोर्सेज इस माध्यम में नहीं होगा यह बैन हो तो भी नहीं हो सकता है। इसलिये आप चाहें या लेबर मिनिसट्री चाहे कि बैन कर दे तो होन वाला नहीं है। प्लानिंग कमीशन है, आपकी मिनिसट्री है, इसकी पूरी पालिसी बनाइये कि बैन करना है तब बैन होगा। ऐसे थोड़े ही बैन हो जायेंगे। लेबर मिनिसट्री के पास है क्या ? (व्यवधान) लेबर मिनिसट्री कानून बना देगी, ला मिनिसट्री कह देगी उसमें आप बैन कर देंगे (व्यवधान)

SHRI P. A. SANGMA: The third aspect of our approach is to launch a welfare measure, a welfare scheme. The first and the second aspects have been reflected in the Bill. Honourable Members from both sides have rightly pointed out that the most important thing, that is, the welfare part of it, has not been reflected in the Bill. Yes, it has not been reflected in the Bill. Had the honourable Members been present here and listened to my preliminary remarks, perhaps they would not have gone to that extent. In the preliminary remarks I had said that the third aspect of the thing has not been covered by the Bill but we are going to take administrative measures as far as welfare is concerned which will cover education, which will cover health, which will cover nutrition. For this particular aspect of welfare we are coming out with administrative measures (*Interruption*) The honourable Member in his speech suggested that instead of calling it a technical committee, we could have called it a welfare committee. The function of a technical committee is different from that of the committee we are talking about, which we are contemplating. In my preliminary remarks I had said that the Government is formulating a national policy on child labour, and I hope to announce that policy soon, where we shall be coming out with specific programmes, with specific projects, by which we will try to implement welfare schemes for working children, and all the points which the honourable Members have made regarding nutrition, regarding health care, will be finding a place in that. In fact, we are in the final stages of our formulating that policy. Just two or three

is very simple. The logic is that because the child labour is very cheap and the adult labour is costlier, they prefer to employ children. Now, by this Act, when we regulate it and say, "No; you cannot employ a child for eight hours ..."

SHRI V. GOPALSAMY : You have not totally banned it.

SHRI P. A. SANGMA : "...or ten hours or twelve hours like this.", things will improve. We will say that they cannot employ them like that as it happens in Sivakasi and in some other places as you have pointed out. When a child is working for twelve hours for three rupees, we will say that he will work for three hours only for twelve rupees. The moment this regulation is implemented—I cannot assure you how effectively it will be implemented and I must be frank, very frank, about it; because it does not depend on us—things will improve.

SHRI V. GOPALSAMY : But you have got no machinery.

श्री राम अवधेश सिंह : होटल मजदूरों
... (व्यवधान)

SHRI P. A. SANGMA : I am not yielding. (Interruptions). I am not yielding.

श्री राम अवधेश सिंह : श्रीमन्...

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Let the Minister continue. Nothing of what you say will go on record. Please sit down.

आप बैठिये । आपने यह बात कह दी है ।

श्री राम अवधेश सिंह :

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): It is for the Minister to reply to what has been said. You have already spoken. Please sit down. Nothing of what you say will go on record.

श्री पशुपति नाथ मुकुल (उत्तर प्रदेश):
हर बार आप खड़े होते रहियेगा ? आपने
जो कहना था कह दिया ।

उपसभाध्यक्ष (पवन कुमार बंसल) :
मुकुल जी आप बैठिये । इंस्ट्रक्शन नहीं
दीजिये ।

उपसभाध्यक्ष (श्री पवन कुमार बंसल)
मुकुल जी आप बैठिये । इंस्ट्रक्शन नहीं
दे जिए ।

I have already said that nothing will go on record.

SHRI RAM AWADESH SINGH: *

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): This will not go on record.

SHRI P. A. SANGMA: Mrs. Bhatt has made a very valid point that if the existing labour laws are implemented effectively, particularly the Minimum Wages Act, most of our problems would be solved. I subscribe to this view. And I only wish that we gear up our administration and that of the various State Governments which are implementing the labour laws. If these labour laws are implemented, I agree with Mrs. Bhatt that most of our problems can be solved. And the point I was trying to make is that the moment we can make the employment of children difficult, costly, not cheap, I suppose that itself will give us an opportunity to see that the child labour goes down slowly, because I am sure that if a man has to pay more or less the same amount for less hours of work, I am sure that they will prefer to employ an adult. But today this is not the case. That is why, people go in for children than for adults.

With these observations, I can only assure hon. Members that we have come to this House with sincerity and honesty. And I can assure the whole House that we will try to see that these Bills are effectively implemented.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL) : The question is :

"That the Bill to prohibit the engagement of children in certain employments

[Shri Pawan Kumar Bansal]

and to regulate the conditions of work of children in certain other employments, be taken into consideration."

The question was proposed.

SHRI NIRMAL CHATTERJEE (West Bengal) : Sir, since it is Mr. Sangma as the Minister, I want to make one or two comments.

I do not question the honesty of approach at all. But one should not be permitted to use the term 'honesty of approach' to cover up mistakes in approach. The point that I want to drive home is that, why is it that labour laws are not implemented, because to the extent labour laws are working in favour of the weak, by definition the weak is at a disadvantage with the strong? Exactly similarly, in the case of children whatever good laws you may enact, the problem remains; these cannot be implemented. I raise this point because I am very unhappy at one of his answers to the question raised yesterday during the Question Hour. He was emphasizing that the workers should be educated to visit the medical authorities. The point is not that at all. It is not a question of education at all. It is not a question of mobilisation of public opinion at all. The fact is that he is always under the threat of being dismissed. The fact is that the adult is unemployed and therefore, the child is employed. It is not a question of education; it is not a question of mobilisation of public opinion. It is a matter of one, single objective reality. And that reality is that so long as this Government cannot guarantee employment to the adult. To amount of passing any laws will suffice. (*Time bell rings.*) The child and woman whom periodically to make a reference to are at the receiving end. Unless this recognition of approach is there. I am sorry, despite his honesty of purpose we will not be able to acclaim him because he does not see the reality.

Thank you, Sir.

SHRI P. A. SANGMA : Nothing arises out of this Bill. This is a general observation.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL) : The question is:

"That the Bill to prohibit the engagement of children in certain employments, and to regulate the conditions of work of children in certain other employments, be taken into consideration."

The motion was adopted.

Clause-by-Clause Consideration.

Clauses 2 to 26 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. A. SANGMA: Sir, I move :

"That the Bill be passed."

The question was put and the motion was adopted.

STATEMENT BY THE MINISTER—

II. Regarding security lapses and inadequate security arrangements for high dignitaries at Raj Ghat, Delhi on 2nd October, 1986

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) : Mr. Vice Chairman, Sir, in reply to a query during the discussion on the Calling Attention Notice on 4th November, 1986, in this House I said :

Sir, a reference was made to a cable received in the Ministry of External Affairs. That is a matter on which I am not in a position to give any answer at the moment. But I have made a note of it and I shall try to find out about that.

I have since obtained the facts. The Consul General of India in Karachi sent a cable at 1820 hours, on 2nd October, 1986 which was received in the Ministry of External Affairs at 2330 hrs. on 2nd