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**CHILD LABOUR: PROTECTING CHILDREN AND TEENAGERS' RIGHTS: A
SOCIOLOGICAL PERSPECTIVE**



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Modern states regard education as a legal duty," and, "compulsory primary education is the policy instrument by which the state effectively removed children from the work force. -Myron Weiner

In India, child labour persists on a significant scale. Child labour is neither illegal nor is schooling compulsory. Attitudes to child labour among policy makers in India belie the modern progressive view of childhood being a period of learning through school, and not a period of employment. Child labour usually refers to children up to the age of 14, following the ILO Convention. The International Labour Office (ILO) resolution on age of employment, Concerning Minimum Age for Admission to Employment (Convention No. 138), recommends that no person below 15 years be considered suitable for employment (on the grounds that a child should compulsorily complete a certain number of years of school). The United Nations Convention on the Rights of the Child (1989), however, refers to children as persons below the age of 18.

If we consider the age group 5-14, there were 12.6 million child workers in the country. We have more child workers than the entire population of Belgium. More than 50 per cent of child workers (6.7 million children) are concentrated in the five States of Uttar Pradesh, Andhra Pradesh, Rajasthan, Bihar, and Madhya Pradesh.

Child labours are exploited, exposed to hazardous work conditions and paid a pittance for their long hours of work. Forced to forego education, shouldering responsibilities far beyond their years, becoming worldly-wise when their peers have yet to leave the cocoons of parental protection, these children never know what childhood is. The Indian Constitution enshrines that:

- No child below the age of 14 years shall be employed to work in any factory or in any hazardous employment. (Article 24)
- Childhood and youth are to be protected against exploitation and against moral and material abandonment. (Article 39(f))
- The state shall endeavour to provide within a period of 10 years from the commencement of the Constitution free and compulsory education for all children until they complete the age of 14 years. (Article 45)

Hazardous Work & Legislation

The current legislation in India does not ban all forms of child labour. The Child Labour (Prohibition and Regulation) Act, 1986, is concerned only with "the engagement of children in certain employment" and accordingly lists specific occupations (Part A) and processes (Part B) in which the employment of children



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is banned or is to be regulated. The occupations specified in the Act include work in the railways, ports, and the sale of fireworks, and the processes specified include bidi making, carpet weaving, and the manufacture of soaps, matches, and cement.

On August 1, 2006, the Ministry of Labour added the following occupations to the list of hazardous occupations: domestic servants, workers in *Dhabas*, restaurants, hotels, motels, teashops, resorts, spas or other recreational centers. The notification has become effective on October 10, 2006. This is a welcome step but far from adequate. Implicit in the above legislation is the view that certain types of employment are hazardous and only child labour in those employments is to be prohibited or regulated. The ILO Convention (No. 182) on the Worst Forms of Child Labour, 1999, also attempts to make a distinction between hazardous and non-hazardous employment. The convention seeks the immediate elimination of certain types of child labour including slavery (sale of children, debt bondage etc.), prostitution, drug trafficking, and other hazardous activity (or "work which is likely to harm the health, safety or morals of children").

There is no doubt that bonded labour and other extremely exploitative forms of child labour should be ended at once, and require priority attention. Nevertheless, there are problems with defining hazardous activity; ultimately, all forms of labour are hazardous to the well-being of children.

Children work long hours (12-14 hours a day in the lock making industry of Aligarh) for low wages (a child's wage was one-tenth an adult wage in gem polishing in Jaipur) in dangerous work environments (close to hot furnaces in the glass factories of Firozabad). Literacy among child workers is very low, they suffer ailments at an early age, and their life expectancy is unlikely to be high. There is also a gender division of labour with engaged in specific jobs, generally at lower wages than boys.

There are obviously many gaps in the existing legislation as it excludes several dangerous processes. It is prohibited for a child to work in a sawmill but not in a carpenter's workshop. Working with agricultural machinery is prohibited but field labour using a sickle is permitted. More important, all working children are exposed to a variety of hazards, only some of which are intrinsic to the work process. As shown by Neera Burra, hazards arise from the work environment, the exploitative conditions of work, and the intrinsic vulnerability of children.

The decision of the Government to ban child labour in teashops and hotels is based on the recommendations of a technical advisory committee headed by the Director General of the Indian Council of Medical Research. This committee based its recommendations on the argument that children in the above listed



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occupations are subjected to physical violence, psychological traumas, and at times even sexual abuse. They also argued that working long hours affected their "health and psyche," and made them "easy prey to sex and drug abuse as they came in contact with all kinds of people," This incisive argument is, of course, applicable to children working in many other activities and industries. Is a child worker engaged in stitching buttons on to shirts in a tiny garment enterprise not subject to long hours of work and abuse by the employer? The line between hazardous and non-hazardous child labour is a thin one.

Causes of Child Labour

In a country like India where 21.9 per cent of the population is living in conditions of extreme poverty, child labour is a complex issue. Children work out of necessity and without their earnings (however meager they may be): the standard of living of their families would decline further. A large number of them do not even have families or cannot count on them for support. In these circumstances, the alternative to work may be idleness, destitution, or worse, crime.

Employers give certain justifications for employing children to suppress their guilt feelings. They say that the work keeps children away from starvation. They are prevented from committing crimes, which they would have indulged in if they had no jobs. The bureaucrats hold that the total eradication of child labour is not feasible because the government cannot provide substantial alternative employment to them. The social scientists say that the main cause of child labour is poverty. The children either supplement their parents' income or are the only wage earners in the family. It is said that 21.9 per cent of the total population of India or about 26 crore 93 lakh people live below the poverty line. Of these, 21 crores are living in rural areas and 5.28 crore in urban areas. The highest number of persons living below the poverty line is found in Uttar Pradesh (8.09 crore), followed by Bihar (4.38 crore), Madhya Pradesh (3.27 crore) and Maharashtra (2.28 crore). These persons are forced to send their children to work in factories, etc. Another reason is that child labour is deliberately created by vested interests to get cheap labour. The third reason forwarded for the existence of child labour is that it benefits industries. For example, the carpet industry of Uttar Pradesh which employs 75,000 children earns about 150 crore a year in foreign exchange.

Government Measures and National Policy of Amelioration The government believes that it is easy to completely wipe out child labour. It, therefore, has only tried to improve their working conditions -reduce working hours, ensure minimum wages and provide facilities for health and education. It could be said that the national policy has three main ingredients-legal action focusing on general welfare, development programmes for the child workers and their families, and a projects-based action plan. Initially ten projects



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were proposed to cover the areas where child labour is prevalent. They included the glass industry in Firozabad, carpet weaving in Mirzapur, diamond-cutting industry in Surat and Jaipur, brassware industry in Moradabad, match works in Sivakasi, and so forth of these, only two or three have been taken up so far. It was also contemplated in the policy to utilize the ongoing projects for the child workers and their families in order to cover their education, health, job prospects and a study of the socio-economic conditions, which compelled these children to work at such an early age.

The Union government set up a National Authority on October 2, 1993 to eliminate child labour in hazardous industries by the turn of the century. Rs. 850 crores were provided in this plan for benefiting two million children (out of a total of 17 million child labour in country), about 15 per cent of the total child labour. The plan aims at rehabilitating the child workers, giving them education in 15,000 schools in different parts of the country, and providing compensation to families whose wards are withdrawn from hazardous jobs. But is this plan merely a vote-catching action to fulfill an independence promise to rehabilitate child workers at the rate of two million a year, or the government is really serious to eliminate this problem. The seriousness appears to be doubtful.

What Needs to Be Done

Undoubtedly, poverty is the seed-bed for child labour. It is the children of the poor, and the socially and economically deprived sections of the population, who work. However, the persistence of child labour depends critically on the demand for it. This demand for child labour, as shown by C.P. Chandrasekhar, is either from employers who want to make larger profits by employing cheap workers or from small employers or household enterprises who use child labour to survive in low productivity activities.

It is commonly argued that child labour cannot be stopped (and may be even harmful to end) till such time as poverty is reduced, and, therefore, the main policy thrust should be towards the eradication of poverty. The grounds for this argument are usually two: one, a concern for the poor household that depends on the earnings of the child worker, and, secondly, the inability to enforce a ban on child labour in a situation of poverty.

Historical experience (of the now advanced countries) as well as the comparative development experience (of newly industrialized countries) clearly demonstrates that the achievement of universal school education and the abolition of child labour was not dependent on the level of per capita income or the level of industrialization or the socio-economic status of families. Even in India, the experience of Kerala shows that



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near universal schooling and a very low incidence of child labour can be achieved at a relatively low level of per capita income. Thus, rather than income growth preceding a reduction in child labour, the chronology was, in fact, that the spread of mass education and accompanying reduction in child labour preceded economic growth (and can be viewed as a precondition for economic development). The abolition of child labour does not have to wait for the ending of poverty.

It is time to end all forms of child labour, and to recognize that all children have a right to education and leisure and other means to develop their physical and mental capabilities during childhood. Putting an end to child labour must be a priority of the international community. In order to reach this goal, it is necessary to implement national policies that guarantee the elimination of poverty and young people's access to education, health care and other services. Protecting children and teenagers' rights is everyone's job.

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