

**CHILD LABOUR IN SELECT ASEAN COUNTRIES:  
POLITICAL, ECONOMIC AND SOCIAL IMPLICATIONS**

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VYOMA NUPUR

CENTRE FOR SOUTH, CENTRAL, SOUTH EAST ASIAN AND  
SOUTH WEST PACIFIC STUDIES  
SCHOOL OF INTERNATIONAL STUDIES  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI – 110067  
INDIA  
2000




जवाहरलाल नेहरू विश्वविद्यालय  
**JAWAHARLAL NEHRU UNIVERSITY**  
NEW DELHI - 110067

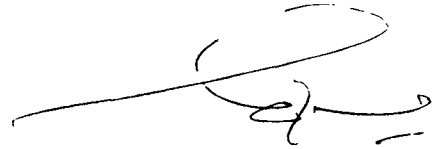
Centre for South, Central,  
South East Asian and South  
West Pacific Studies,  
School of International Studies

GRAM : JAYENU  
TELEX : JNU IN  
TEL. : 6107676 / Extn.  
6167557 / 2365  
FAX : 91-11-6165886  
91-11-6868234

**CERTIFICATE**

Certified that the dissertation entitled *Child Labour in Select ASEAN Countries: Political, Economic and Social Implications* submitted by Vyoma Nupur in partial fulfilment of the requirements for the award of the Degree of *Master of Philosophy (M. Phil.)*, is her own work and has not been previously submitted for any degree of this University or any other University.

  
Dr. Nancy Jetly  
Chairperson



Dr. Ganganath Jha  
Supervisor

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VYOMA NUPUR

## **PREFACE**

This study presents the nature, magnitude and causes of child labour, focussing on the following five countries of the ASEAN region:

- 1) Thailand
- 2) Cambodia
- 3) Vietnam
- 4) Malaysia
- 5) The Philippines

Chapter 1 briefly traces the genesis of child labour as it evolved with the dawn of the industrial age and examines the magnitude of the problem at the global level. It also discusses the range and nature of child labour practices in the select countries of the ASEAN region along with an analysis of the causes of child labour.

Chapter 2 examines the existing legal framework at the national and international levels to determine the adequacy and effectiveness of legislation on this subject. The national laws on this subject in the select countries are examined in detail to evaluate their status vis-à-vis international standards. The role of national laws in curbing the practice is also commented upon.

Chapter 3 assesses the problem of child labour from an economic standpoint. This is relevant, because child labour is strongly related to poverty and its side-effects. An economic model based on demand-supply of labour is presented to gain insight on the economic factors relating to child labour issues. Various economic incentives to discourage child labour are also enumerated. The debate between the developing and developed countries on linking trade with labour issues is described.

Chapter 4 explores the issue of child labour from the viewpoint of the exploited child - the associated helplessness and hopelessness, the permanent

scarring of the child psyche, the desperate bid to escape from the vicious circle of poverty and exploitation and the possible metamorphosis of the exploited child into the criminal adult. The need to consider psychological aspects while formulating rehabilitation strategies is stressed upon.

Chapter 5 examines the ASEAN perspective on the child labour issue, discussing the proceedings of the ASEAN Ministerial Meetings on Labour and Social Welfare to date and analyzing the role of the regional organization on child labour.

The final chapter summarizes the appraisals and findings drawn from earlier chapters.

# CHAPTER 1

## INTRODUCTION

Ancient Indian tradition organized man's life into four distinct phases or *ashrams*. These were *Brahmacharya*, *Grihastha*, *Vanaprastha* and *Sanyasa*. Each ashram had a separate goal. The first phase of *Brahmacharya* was a preparatory phase of life, dedicated to what we now call human resource development. Children had intense interaction with the *Guru*. They lived in his Ashram along with his family and learned through constant interaction and dialogues with the *Guru*. This tradition of *Brahmacharya* recognized that though a child is born with immense possibilities, there must be a mandatory period of learning and training to make him realize his full potential. In the *Guru's* Ashram children did simple chores like cleaning and wood picking. But these activities were essentially meant to inculcate the concept of the dignity of labour and self-reliance. Employment and economic activities were reserved for the next phase of life, the *Grihastha ashram*, and could not be indulged in during the first phase.

The ashram system represented an orderly arrangement that helped in the balanced growth of the society and the individuals constituting it. Though the interaction may not be as intimate as in the famous *Guru-shishya parampara* of *Bramacharya ashram*, modern societies, through the contemporary system of education, have identical goals of achieving harmony and balance between the society and the individual. Child labour is a dysfunction that disturbs this delicate balance. It is an aberration that strikes at the very root of societal norms that are as old as civilization itself.

In its simplest form, child labour involves forcing the child to take up employment for economic benefits during the period of his life that should be devoted *solely* to his education and personality development. Depending upon the nature of the employment, child labour may take different hues and forms. In its worst form this may even involve child prostitution or child soldiering.

Child labour is coercive when the child is in no position to assert his own will. It is an abjuration of the fundamental responsibility of adults towards their own progeny. William Wordsworth, the famous English poet had aptly described the child as the father of man. It is a resource as central to our existence as the environment. The child represents the collective future and hope of all mankind. The practice of child labour jeopardizes this future and diminishes this hope. In the long run, child labour hurts both the society and the individual. It unleashes the specter of its victims developing into socially maladjusted and psychologically scarred adults. In this sense, child labour is a cannibalistic activity. The practice is cruel, callous and simply inhuman. Therefore, it is a crime against all humanity.

The figures are staggering. The ILO estimates that 250 million children world over are victims of child labour.<sup>1</sup> In fact the actual numbers may be much larger. Exact estimates are difficult because children are deployed in an extremely broad spectrum of activities. They work in factories and toil in agricultural fields. They are fed as gun fodder in wars and armed conflict. They are human cargoes that are moved across international borders to serve as migrant labour. They are degraded and dehumanized to work as prostitutes and to serve in the multi billion-dollar pornographic industry. Millions work as domestic help, in roadside shops and as street hawkers. The list is endless. Thus the problem is truly gigantic.

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<sup>1</sup> "Child Labour Statistics", International Labour Organization Bureau of Statistics Publication, Jan 2000.



The first step in the study of the problem of child labour is to clearly delineate its scope - what constitutes child labour and what does not? The International labour organization (ILO) defines the term "child labour" as any economic activity performed by a person under a certain minimum age.

Two aspects emerge from this definition of child labour, namely, the nature of work and the minimum age of the person to fall within the ambit of child labour.

Not all work performed by children can be considered as harmful to them or exploitative in nature. The basic criteria, to decide if the work constitutes child labour, is based on the following considerations:

- Education is central to a child's growth and development. Therefore, the work performed by the child should not hamper his education by preventing regular school attendance.
- Work performed should not be of a hazardous or illegitimate nature because this is likely to affect the physical health, mental wellbeing or morals of the child.
- Child labour does not usually refer to light work after school or attending apprenticeship or training programs.
- Helping out on the family business, with family chores or on the family farm does not constitute child labour.

After settling the question what constitutes child labour, and what does not, there is a further need to classify child labour on the basis of its severity and nature. For example, child soldiering (on the basis of its extreme severity)

and child prostitution (due to its depraved nature) could be designated as 'worst forms of child labour'. But if the goal is to abolish child labour totally and in all its forms, why make such distinctions?

The answer lies in recognizing the ground reality. Child labour is too wide spread and has too severely stained the social, economic and cultural fabric our society. It may not be possible to completely abolish this practice in the near future. Hence while working for its total abolition, there is a need to identify and seek solutions for its most malignant forms

The second aspect is the minimum age at which a person could be permitted to join employment. At the international level, this age has been specified by the ILO's minimum age convention of 1973. Broadly, the minimum age is taken as 15 years for light work and 18 years for work of hazardous nature.

### **Scope and Objective of the Study:**

After explaining the conceptual meaning of child labour, the study presents the nature, magnitude and causes of child labour. Maximum number of child workers (about 61%) are found in Asia. The problem is quite complex in the ASEAN region not only in terms of numbers but also with regard to the hazardous and deplorable nature of work carried out by a significant proportion of child workers.

Of the ten countries that constitute the ASEAN region, this study focuses on Thailand, Cambodia, Vietnam, Malaysia and the Philippines. In this chapter we briefly trace the genesis of child labour as it evolved with the dawn of the industrial age. This is followed by an examination of the magnitude of the problem as it exists on the global scale and its distribution in

various regions. Figures related to the select ASEAN countries are also presented. Also discussed is the range and nature of child labour practices in the select countries of the ASEAN region. This is followed by an analysis of the causes of child labour.

### **Genesis of Child labour:**

It is difficult to trace the origins of child labour. It could be an ancient practice centered on agricultural activities that might have existed sporadically and in small communities all over the globe. But the ugly face of the problem can be traced to the beginning of Industrial Revolution in 18<sup>th</sup> century and the rise of capitalism in Europe and Great Britain. The industrial revolution brought machines to the fore and several functions hitherto performed manually could be automated. This fuelled mass-production of goods that required a large industrial work force. Social aberrations and greed for larger profits led to the use of children in this work force. The masses displaced from their traditional occupations took it for granted that if the family has to survive then children must work. It was reported that small children of the age of 5 years and above were being employed in large numbers in factories and mines where they toiled under horrible conditions. Initially, child labour was not looked down upon in the society. Daniel Defoe, a celebrated literary figure reflected the societal norm of his times when he admiringly observed that in the vicinity of Halifax, scarcely anybody above the age of 4 was idle.

However, the problem of child exploitation grew particularly acute in Great Britain, as the Industrial Revolution took firm roots. Under the English Poor Law, pauper children who had no one to support them were to be trained as apprentices for learning some trade. It was the responsibility of government officials to arrange this apprenticeship. In actual practice, however, these good intentions of the law were seldom fulfilled. Rather it became a source of

organized exploitation. Children assigned to the factories were made to work for long hours with poor or no compensation by the factory owners.

Child workers did not consist only of pauper children. Thousands of children were indentured to work in mills by poor parents. Textile was one of the sun-rise industries, and conditions in these factories were particularly harsh. This was amply borne out by the testimonies before a commission set up by the English Parliament in the 1830's. Children as young as 8 worked for up to 16 hours at a stretch. In Iron and coal mines, both boys and girls, began work at age 5, and generally died before they were 25. In gasworks, shipyards, construction, match factories, nail factories, and in the business of chimney sweeping, the exploitation of child labour was very extensive.

Horror stories about these hapless children began to prick the conscience of politicians, intellectuals and the general public. Charles Dickens, the famous English novelist attacked the practice in his widely acclaimed novel *Oliver Twist*. Dickens had clear insights on the travails of a child worker, having worked in a factory at the age of 12 years. John Fieldon, himself a factory owner was a severe critic of exploitative child labour: “.. *Here, then, is the "curse" of our factory-system; as improvements in machinery have gone on, the "avarice of masters" has prompted many to exact more labour from their hands than they were fitted by nature to perform ...*”<sup>2</sup> A vivid and detailed description of the impact of factory labour on the physical condition of children is given by Gaskell:

*“Factory labour is a species of work, in some respects singularly unfitted for children. Cooped up in a heated atmosphere, debarred the necessary exercise, remaining in one position for a series of hours, one set or system of muscles alone called into activity, it cannot be wondered at--that its effects are*

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<sup>2</sup> Fieldon J, *The Curse of the Factory System*, Allen & Unwin,, London, 1836, p 161-162

*injurious to the physical growth of a child. Where the bony system is still imperfect, the vertical position it is compelled to retain, influences its direction; the spinal column bends beneath the weight of the head, bulges out laterally, or is dragged forward by the weight of the parts composing the chest, the pelvis yields beneath the opposing pressure downwards, and the resistance given by the thigh-bones; its capacity is lessened, sometimes more and sometimes less; the legs curve, and the whole body loses height, in consequence of this general yielding and bending of its parts. “<sup>3</sup>*

However, labour legislation was slow and halting. The first child labour legislation was passed in 1802. It dealt only with pauper children. However, this legislation was not enforced seriously and there were hardly any improvement in the condition of pauper children. Through out the 19<sup>th</sup> century though, there was progressive improvement through successive legislation. After radical agitation, notably in 1831, when "Short Time Committees" organized largely by Evangelicals began to demand a ten-hour day, a royal commission was established by the Whig government. It recommended that children aged 11-18 be permitted to work a maximum of twelve hours per day; children 9-11 were allowed to work 8 hour days; and children under 9 were no longer permitted to work at all. Children as young as 3 had been put to work previously. This act applied only to the textile industry and not to a host of other industries and occupations. In 1840 perhaps only twenty percent of the children of London had any schooling, After further radical agitation, another act in 1847 limited both adults and children to ten hours of work daily.

These agitation coupled with the factories Acts of 1819, 1825, 1833, 1844, and 1878 led to reduction in working hours, increase in the age of entry

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<sup>3</sup> Gaskell P, *The Manufacturing Population of England*, Allen & Ulwin, London, 1833, p 34-35.

to work force and strengthening of the inspection and law enforcement measures.

Across the Atlantic, in the United States, exploitative child labour was equally prominent. The name of Lewis Hine, an American sociologist figures prominently in exposing the condition of children in the American labour force. He used photography as a documentary tool for this purpose. From 1911- 1916 he toured the US as official photographer for the National Labour Committee, where he depicted in a sensitive and heart- rending manner the plight of children working in the mills. He often hid his camera so that he could take authentic photographs; nevertheless he met with considerable opposition from the employers, who accused him of muckraking. Sometimes he was banned from the premises, on other occasions the children were hidden from view when he arrived. On occasions Hine even posed as a fire inspector or insurance agent in order to gain access to the premises! Hine discovered and exposed some appalling conditions, such as children aged six or seven having to work as many as twelve hours a day. "*I wanted to show things that had to be corrected*", Hine declared. He produced several thousands of pictures. It was not until the 1930s that his work bore fruit, and child labour was controlled in the United States.

Looking at the genesis of child labour, it can be concluded that the industrial revolution was at least a catalyst if not its sole contributor. During the 19<sup>th</sup> and the early 20<sup>th</sup> centuries, the developed nations of today were the worst offenders. But during the later part of the 20<sup>th</sup> century, the practice of child labour generally diminished in these countries due to a variety of factors such as stringent legislation, informed public opinion, growing affluence and higher literacy rates. The 'epicentre' of the problem then shifted to the developing countries of Africa, Latin America and Asia. Clearly, the developing world did not learn from the mistakes of the developed countries. Most of

these countries were under colonial rule and their colonial masters willfully or negligently allowed the problem of child labour to take root in the colonies, even as they were taking remedial action back home. This will be amply clear from the provisions of the first ILO convention on child labour of 1919, where the minimum age for employment of children in industry was prescribed. Whereas, this age was generally fixed at 14 years, an exception was made for India for which the age was lowered to 12 years. Thus, despite the current moral posturing, the developed world must own a part of the responsibility for wide spread child labour in Asia, Africa and Latin America.

### **Quantitative Assessment of the problem:**

To obtain a global estimate of the number of child workers, it is necessary to gather this statistics on a nation to nation basis. But many countries do not collect and publish figures on child labour. Even when they do, the picture presented is incomplete - often ignoring the figures related to unorganized sectors such as domestic services, small businesses and agriculture. This is particularly true of many developing countries. Thus, though the 1996 estimate of ILO places the figure of children between the age of 5-14 years who are engaged in economic activity at 250 million, the exact numbers can not be pin-pointed at any level - national, regional or global.

It is impossible to fight a war without a visible target. Thus, gathering reliable data on child labour is an important first step. The need for reliable data and information on child labour was rightly stressed in the conclusions drawn at the Amsterdam Child Labour Conference<sup>4</sup> held in February 1997. It encouraged "the ILO, with cooperation and support from all its members, to expand the scope of their work in information gathering, statistical data, and

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<sup>4</sup> The Reports on the Amsterdam Child Labour Conference, ILO Publication, Feb 1997.

empirical research." The Final Report on the International Conference on Child Labour held at Oslo, Norway in October 1997<sup>5</sup> states:

*"Lack of accurate data and information about child labour was seen as a major difficulty in diagnosing the problem. Many delegates set a high value on accurate information on progress being made towards the elimination of child labour. International agencies, in particular, were urged to devote both financial and human resources to more extensive data collection in order to facilitate the development of useful monitoring systems...."*

The "Agenda for Action" adopted at the Oslo conference also called for the development of information collection and monitoring systems with a view "to provide countries with a tool for understanding the incidence and root causes of child labour and for planning action and measuring progress in programme intervention."

In line with these arguments, the ILO is supporting the collection of reliable and comprehensive information on child labour in several countries. A programme called the 'Statistical Information and Monitoring Programme on Child Labour (SIMOC) was established<sup>6</sup>. SIMOC was launched by ILO/IPEC in January, 1998 with the objective *"to help approximately 50 member countries over a 5 year period, generate comprehensive and reliable comparable quantitative and qualitative gender sensitive data on child labour in all its forms"*.<sup>7</sup>

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5 "Final Report of the International Conference on Child Labour", ILO Publication, Oslo, Norway, p10.

6 "Action Against Child Labour: Lessons and Strategic Priorities for the Future", IPEC Publications, Geneva, Oct.1997, p107-108.

<sup>7</sup> "Overview and Strategic Plan on Child Labour: 2000-2002", IPEC Publications, Dec, 1999, p 15.



While SIMOC is an important and the most recent initiative in quantifying the extent and nature of child labour, pre-SIMOC surveys and national data have helped in generating child labour profiles. Thus, in 1996, the ILO issued a set of diskettes and a publication entitled Economically Active Population 1950-2010 <sup>8</sup>. The Regional and Global estimates for children in the 5-14 year age group are listed in table 1.1 below:

**Table 1.1: Global and Regional Estimates of Child Labour**

Region	Both Sexes	Boys	Girls
World (in millions)	250	140	110
Africa (% share)	32%	56%	44%
Asia	61%	54%	46%
Latin America	7%	67%	33%
Oceania	0.2%	57%	43%

It is seen that about 250 million children in the age group of 5-15 years were engaged in economic activities all over the world. The child workers in absolute terms are in Asia (making 61% of the total child labour work force), Africa has 32% share of child workers. Asia and Africa together make about 93% of the child workers.

The available data indicates consistently higher figures for child labour among boys, both at the global and regional levels. This gender difference is most pronounced in the case of Latin America. Does it indicate that the girl child is more protected than the boy child? This may not be so. Girls are often deployed in 'invisible child labour', mainly in domestic services which remain unreported.

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<sup>8</sup> "Economically Active Population: 1950-2010", ILO, 4<sup>th</sup> Edition, Dec 1996, p 51.

While examining figures on child labour, it is also useful to look at the incidence of child labour in a particular region. The incidence of child labour can be taken as the percentage of child workers to the total children in 5-15 age group. Africa, the poorest region, has the highest incidence of child labour - about 40%. For Asia and Latin America, child labour incidence is 20% each.

It must be emphasized that the figures presented above are rough estimates. Out of the 250 million child workers, 120 million are estimated to work full time (that is not attending school at all), while the remaining 130 million may be combining work with education or other activities. In this context, it is useful to note the estimates of children not attending school furnished by UNESCO. In its 1995 estimate, about 110 million children of primary school age were not attending school. These children of primary school age and other older non-school going children may form the bulk of 120 million full-time child labourers. Thus, the link between full-time child workers and children not attending school is clearly established.

Although the developed world does not figure in the above table (because of small numbers when compared to figures for Asia, Africa and Latin America), child labour is not entirely extinct in the industrialized countries. In these countries, child labour is, in many instances, concentrated in pockets of ethnic minorities, immigrants and socially marginalized communities. It has also been reported that child labour is on the rise in Central and Eastern Europe.<sup>9</sup> This may be due to the changes during the last decade from centrally planned economies to market driven economies in the erstwhile Soviet Union and Soviet bloc countries. According to an ILO estimate <sup>10</sup>, in the United States, the number of working children in the age group of 12 to 17 is 5.5

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<sup>9</sup> "Strategies for Eliminating Child Labour: Prevention, Removal and Rehabilitation", ILO Document, 1997.

<sup>10</sup> "Background Document Prepared for the Amsterdam Child Labour Conference", ILO Publication, Geneva, First Published 1997, p 35.

million. This does not include children below the age of 12 who may be working illegally in occupations such as garment making, street trading and as farm hands.

The estimates discussed above relate to the assessment as on 1996. In the absence of reliable and more comprehensive data it is difficult to estimate the current situation with any degree of certainty. It is not known whether the number of child workers has actually increased, decreased or remained constant. While initiatives such as SIMOC will help in the future, current trends may be guessed by examining the parameters that are known to have strong linkages with child labour. An ILO document <sup>11</sup> hypothesizes that child labour may be declining in Asia due to the following factors:

- Reduction in poverty
- Spread of basic education
- Reduction in population growth

On the contrary, it may be rising in Africa because of the following adverse developments:

- Rapid population growth
- Reduced standards of living
- Insufficient public investment in essential economic and social services, especially education

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<sup>11</sup> Ibid p.12 (Ref. 9)

- War and strife that has displaced millions of people
- Breakdown of family structures
- HIV/AIDS pandemic that has turned thousands of children into head of house holds

**The extent of child labour in the five select countries in the ASEAN region**

**Thailand:**

In absence of reliable statistics, the number of child workers can not be estimated with any degree of accuracy. This situation arises because the national census and labour surveys collects information only on people of the age of 13 years and above.

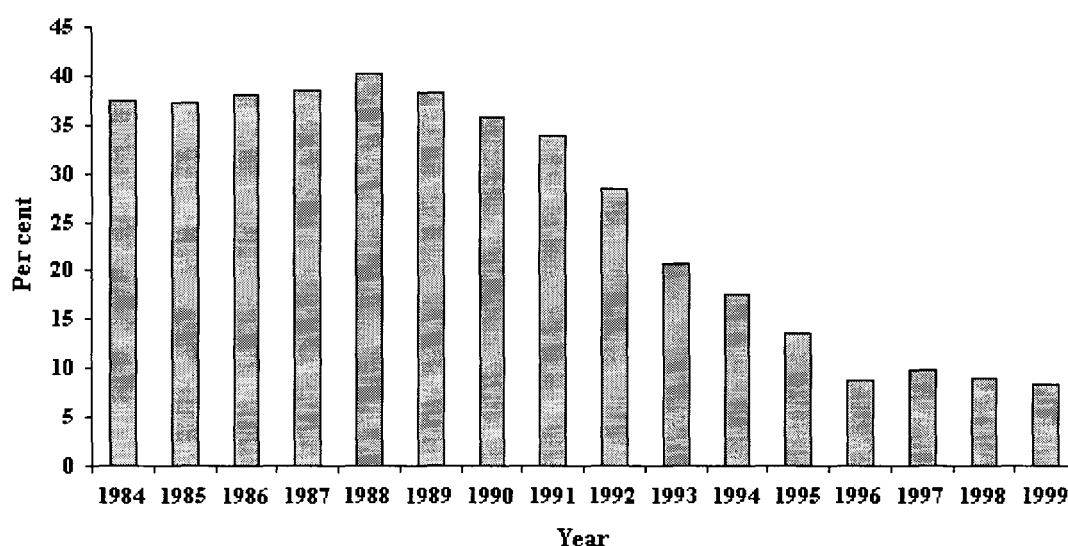
Child labour estimates for Thailand are shown in table 1.2.

**Table 1.2: Child labour estimates for Thailand**

Total Population in Millions (1996)	Age Range	Number of Children in Age Range (Millions)	Estimated Number of Child Workers in Age Range thousands	Percentage of Children Working in Age Range
60	6-14	5.6	1,495	12.6%

(Source: By The Sweat and Toil of Children: Volume 5: Efforts to Eliminate Child Labour. U.S Department of Labour, Bureau of International labour Affairs, 1998)

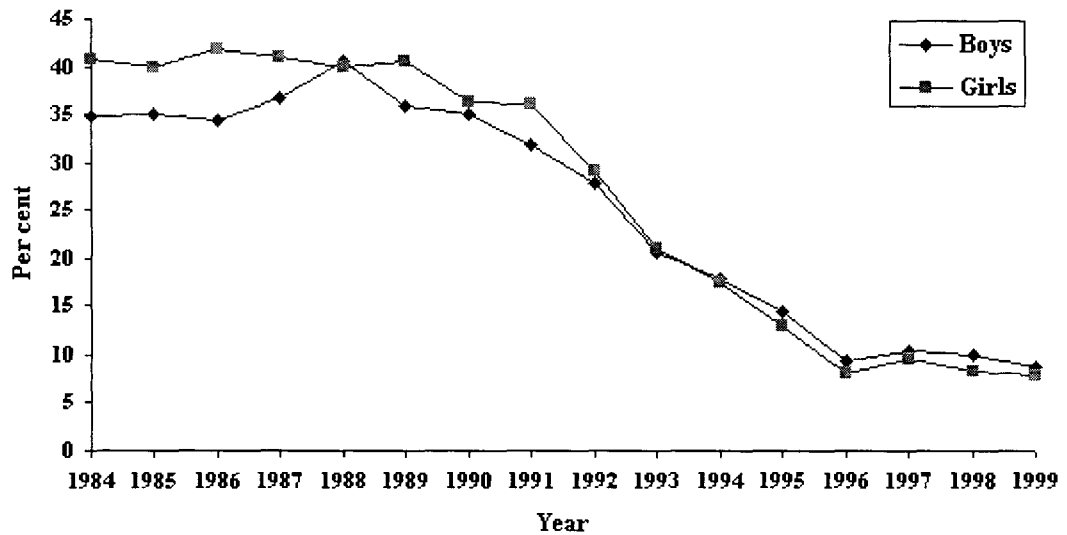
Estimates for narrow age groups have been provided by National Statistical Office (NSO) labour force surveys year-wise from 1984 to 1999. Figure 1-1 provides interesting insights on how the number of child workers as a percentage of total children in the concerned age group is changing over the years. It is seen that from a peak of 40% child workers in 1988, there has been a consistent and considerable reduction up to 1996, with the percent of child workers falling to about 8%. There was a slight increase in 1997, triggered perhaps, by the economic crisis in South-east Asia.



Source: Compiled from the NSO Labour Force Survey, round 3, 1984-99.

**Figure 1-1: Proportion of Thai children aged 13-14 in the workforce; 1984-99**

Figure 1-2 presents the figures for the same period for boys and girls separately. An encouraging trend seen from the figure is the reduction of the percentage of girls compared to boys beginning from the year 1994.



Note: Data for 1984-85 have been adjusted. For these years data were collected for children aged 11-14 as a whole. The adjustment was calculated from the 1986 figures. In this year data was collected for those aged 11-12 and those aged 13-14. For the younger group, boys represented six per cent and girls represented nine per cent, of those in the workforce for the combined 11-14 age group. Thus the 1984-85 period has been adjusted assuming that those aged 13-14 represented 94 per cent for boys and 91 per cent for girls of the 11-14 group in the workforce.

Source: Compiled from the NSO Labour Force Survey, round 3, 1984-99.

**Figure 1-2: Proportion of Thai boys and girls aged 13-14 years in workforce, 1984-99.**

A World Bank report on Thailand attributes the considerable reduction in child workers in Thailand to the following factors:

- Reduction in Poverty
- Expansion of public education

- Maturity of successful family planning policies that reduced from 6 children to just over 2 children per woman in the last 30 years.

However, the number of child workers is still significant and 1.6 million children below the age of 15 are out of school.

## **Cambodia**

There are 3 million children in the 5-14-year age group in Cambodia. This is 30% of the total population of about 10 million. The percentage of rural children is 83%. According to 1996 estimates, 616,023 children of the age group 5-17 years work. This was 15.9% of all children in that age group. The estimates are presented in a tabular form in table 1.3 below.

**Table 1.3: Estimates of child labour in Cambodia**

Total Population in Millions (1996)	Age Range	Number of Children in Age Range (Millions)	Estimated Number of Child Workers in Age Range (thousands)	Percentage of Children Working in Age Range
10	5-17	3	616	15.9%

There are strong provincial variations in the child labour incidence in Cambodia. The table 1.4 below shows the percent figures province-wise, arranged in descending order of prevalence.

**Table 1.4: Regional Distribution of Child Labour in Cambodia**

Province/Region	Percent of the national figures (age-group 5-14)
Rattanakiri	33.4
Siem Reap	20.3
Pursat	18.9
Cambodia	9.2
Kompong Thom	8.4
Banteay Meanchey	6.6
Battambang	5.7
Phnom Penh	3.8
Svay Rieng	3.6
Cumulative of other Urban areas	6.5
Cumulative of remaining Rural areas	9.7

Source: Social Economic Survey of Cambodia (SESC), May-July, 1996

## **Vietnam**

It is difficult to obtain a firm figure on the extent of child labour in Vietnam. Information obtained from different sources does not tally and estimates are at wide variance. Thus according to the 1998 Report of Vietnam Children Protection and Care Committee, there are only 28,850 working children under 15 years of age. However, according to the 1989 census, the number of working children in the narrow age group of 13 to 15 years alone was 1,349,052. And this figure does not include children working in homes and on the streets. It should not be surmised from this that the number of working children has dropped precipitously between 1989 and 1998. In fact, the figures may have actually increased during the period. According to an investigation



made in 1992-93, the percentage of working children of age group 13-14 increased from 30% in 1989 to 57% in 1992-93. In poorest families the percentage of working children was estimated at 73%. Thus, the incidence of child labour in Vietnam is far above the Asian average of 20%. It appears to be even higher than the child incidence percentage of 40 for the African continent. Based on incidence of child labour, the actual number of child workers is estimated to be more than 3 million. Uncertain estimates such as those available from Vietnam strongly underscores the rationale and utility of statistics gathering initiatives such as SIMOC, discussed earlier in this section.

### **Malaysia**

The figures on the extent of child labour in Malaysia are uncertain and hard to come by. According to the Malaysian Census Report of 1990 there were 40,000 child workers. In the absence of more recent figures, current estimates are put at 77,000 to 200,000. In the context of such wide fluctuations in estimation, it is useful to examine the figures of children not attending school. Information gathered by the Malaysian Statistical Department in 1998 showed that of the 2,985,600 children between the ages of 7 and 12 years, only 2,872,000 attended school. Thus 113,600 children in this age group did not attend school. It is reasonable to assume that a vast majority of these children would be engaged in full time or part time economic activity. Considering that one should at least take the 5-14 age group for child labour estimation, the figure of 200,000 appears more reasonable.

### **Philippines**

In 1995, the Philippines National Statistical Office, in collaboration with the Philippines department of Labour and Employment and ILO/IPEC, carried out a survey of children 5-17 years of age. This study was the first national survey of working

children in Philippines. This survey indicated that there are 3.7 million working children in the country out of which 1.836 million are in the 5-14 years age group. The gender wise division was found to be in the ratio of 2:1. About 1.2 million boys worked compared to about 0.6 million girls. (Compare this to nearly equal distribution of boys and girls in Thailand.) Child participation rates were more than three times higher in rural areas (24%) as compared to urban areas (7%)

**Table 1.5: Child labour estimates in Philippines**

Total Population in Millions (1996)	Age Range	Number of Children in Age Range (Millions)	Estimated Number of Child Workers in Age Range (thousands)	Percentage of Children Working in Age Range
72	5-14	17.5	1,863	10.6%

(Source: By The Sweat and Toil of Children: Volume 5: Efforts to Eliminate Child Labour. U.S Department of Labour, Bureau of International labour Affairs, 1998)

However, according to the studies contained in the International Confederation of Free Trade Union (ICFTU) Report, child labour in Philippines is much higher – 5 million in the age group of 5-14 years, which constitutes 19% of the labour force. Of these 80% children work in the rural areas.

**Range and Nature of Child labour:**

Children are involved in almost all-conceivable activities. Thus it is not possible to list all the uses and abuses to which a child worker is subjected. In this section, we

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attempt to cover major categories of child labour with particular emphasis on the forms this practice takes in select countries of the ASEAN region.

### **Agriculture:**

Most child workers toil in the farms and plantations of the world and not in factories. Despite the large majority working in Agriculture, their plight does not get the kind of attention and sympathy the industrial child workers evoke. One reason is their lack of visibility to agencies and governments involved in the fight against child labour. These children work in highly scattered, remote rural locations all over the world. Since child labour researchers and various national and international agencies hail from urban areas and suffer from an unbalanced urban perspective, the agricultural child worker is beyond the reach of protective child labour legislation and inspection. This partly accounts for the vast invisible child labour for which there are no estimates. Thus child workers continue to work in the shadows, where the government and society often fail to recognize their existence. A 1995 Report of the U.S Department of labour indicated that 7 to 12 percent of the work force on plantations in the developing countries consist of children.

It has also been rightly pointed out that the popular notion of child labour stems from an urban image that “ *has its origins in the struggle against child labour in the last century in Europe*”.<sup>12</sup> Thus the popular perception of child labour got inextricably linked with the exploited child textile worker and the chimney boy. In this perception, it is presumed, wrongly of course, that children working in fields and farms are not oppressed and are not subjected to hazardous conditions. The reverse may actually be true. The hazards of farm labour are many and varied. For example:

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<sup>12</sup> “ Bitter Harvest: Child Labour in Agriculture” ILO Document, Geneva, April 1997, p 17

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- Children start work in Agriculture at a very early stage – 5,6 or 7 year olds are reported to be part of the agricultural work force. The younger the child worker, the greater are the chances of his exploitation. Many young agricultural child workers migrate to work in urban areas, where they perceive that the terms of employment are better.
- Children pick crops dripping with pesticides or apply these chemicals themselves to the crop. Children are not trained to handle these dangerous chemicals. According to data obtained from Sri Lanka, death of child workers from pesticide poisoning is more than from diseases such as malaria, diphtheria, polio, whooping cough and tetanus. Pesticide exposure poses a bigger risk to children than to adults, and has been linked to an increased risk of cancer, neuropathy, and immune system abnormalities.
- Children in farms also suffer from chronic illnesses such as coughs, and pneumonia due to long hours of exposure to cold and damp conditions in the field where they often work barefoot and ill clad.
- Snake and other insect bite are another common threat to farm children.
- Another physical threat faced is from handling of farming tools and equipment. Such equipment is meant for handling by grown-ups. This is totally inappropriate for use by small children and presents grave risks of physical injury to children.
- The level of medical attention available in rural areas is grossly inadequate, thus compounding their physical problems and adding to their cup of misery.

Apart from these hazards, there are several other adverse factors linked to child workers in agriculture. One particularly obnoxious factor is debt bondage. Poor landless farmers and rural destitute take loans from landowners, often at ridiculously high interest rates. Unable to meet this debt, entire families are forced to work on the landowner's farms. Large numbers of children thus fall prey to this debt bondage. Often only the child, and not the entire family, is consigned as bonded worker. According to Alec Fyfe: "*Children become a commodity in this process. Parents have absolute power over their children, making it possible for children to be pledged chattel-like to pay off debts*".<sup>13</sup>

Even where children go to school, the seasonal nature of agricultural activity adversely affects school education. They have to work full-time during peak agricultural activity, for example, during harvesting and sowing. Thus, education takes a backseat and school dropout rates are high.

Children work in the agricultural activity in large numbers in the ASEAN countries under study. The deprivation they face is identical to those described above.

The following report from the Philippines highlights the plight of rubber plantation child workers in the age group of 8-17 years.

*"The children's role in rubber production consists of such activities as wounding the trunk of the tree so that its sap oozes out and flows into a container, mixing the sap with a certain acid, collecting and assembling the 'lateks' or 'kaplams' and carrying the 'bloke' and bringing them to the roadside in wait for the collecting*

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<sup>13</sup> Fyfe A, *Child Labour*, Polity Press, Oxford, 1989, p 171-173.

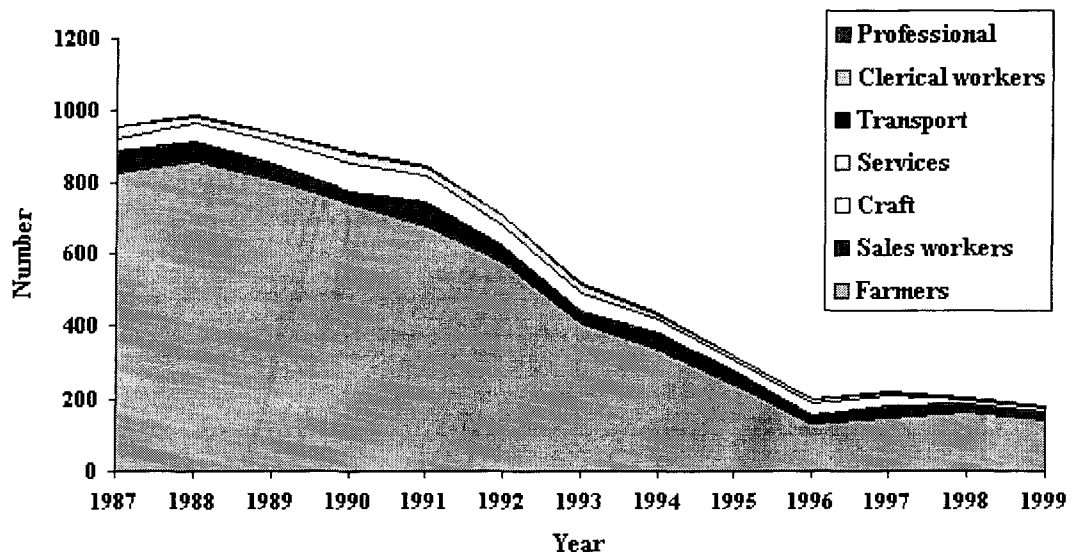
*vehicle. ... The child workers are thus interacting with a chemical or acid or are exposed to such chemical in their work everyday. Such interaction or exposure constitutes the hazardous part of their occupation.... Most child workers are stunted in the physical growth, their heights and weights do not correspond to their ages. They are thin and pale, they look as if they lack blood. They easily get common illnesses like fever, cold and cough. ...Many work all days of the week.... Many are unpaid as they are part of their respective families, the fathers or the parents of which are the only ones considered as workers by the farm owners. Many of the child workers have stopped their schooling. Some have finished their grade six, others have completed only grade two, three or four and still others have not stepped on school floors. Child labour has put them out of their school and has thus reduced, if not abolished, their chances for a better future. ”<sup>14</sup>*

This sums up the collective fate of child workers in the agricultural sector. The account is from Tacul, Philippines involving just 50 children, but it could easily have been from any of the hundreds of thousands of farms in the ASEAN region, nay from any country in Asia, Africa or Latin America. Only the locale and the numbers change, the overall picture is pretty much the same.

The overwhelming numbers involved in agriculture is seen from the statistics from Thailand. Refer figure 1-3.

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<sup>14</sup> Alejandro W. Apit, “ Child Recruitment and some most hazardous forms of child labour in the Philippines”, Kamalayan Development foundation Publication, 1995, p 10



**Figure 1-3: Number of children in different occupations in Thailand**

In Cambodia, the proportion of children involved in Agriculture in 1996 was 90%. In Philippines, the figure is 65%.<sup>15</sup>

### **Fishing:**

A good number of children work in fishing. They are involved in several activities such as working on fishing boats, collecting shellfish, shrimp larvae, and cleaning fish. The hazards in these activities can not be underestimated. Risks include-

- Attack by sharks
- Skin diseases due to long exposure to sea water
- Drowning
- Accidents caused by handling the sharp tools used in cleaning and cutting sea-food
- Exhaustion and fatigue due long hours spent outdoors

<sup>15</sup> Ibid p 2

Several countries in the ASEAN region have a well-developed marine industry due to their geography and eating habits. Thus, child labour in this industry remains a prominent factor.

In 1995, according to the Philippines National Survey of Working Children almost 7% of Filipino working children in the 5 to 15 years age group, were engaged in fishing. One area which employ a high proportion of children is ‘muro-ami’ fishing or deep sea fishing, where the child diver is without proper gear for upto 12 hours a day. According to an ILO Report:

*“Children are used to bang on coral reefs to scare the fish into the nets. Each fishing ship employs up to 300 boys between 10 and 15 years of age recruited from poor families. Divers reset the nets several times a day, so that children are often in water for up to 12 hours. Dozens of children are killed or injured each year from drowning or from decompression illness or other fatal accidents from exposure to high atmospheric pressure. Predatory fish such as sharks, barracudas, needlefish and poisonous sea snakes also attack children. ”*<sup>16</sup>

In Thailand, children clean and shell seafood using sharp tools that often injure them. Sea infection due to constant exposure to salt water is also common. The children are not given gloves to wear because that would slow down their work and decrease productivity. Some children who shell shrimp in Thailand may work for 15 hours or longer, mostly squatting on the floor or sitting on a small bench.<sup>17</sup>

### **Prostitution and Trafficking of children:**

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<sup>16</sup> “ ILO Report on Immediate Action Against Intolerable Forms of Child Labour”, ILO Publication, Vol 96, No. 38, Geneva, Nov 1996.

<sup>17</sup> “By the Sweat and Toil of Children”, U.S Department of Labour Publication, Vol 2, March 2000.



Prostitution and trafficking of children ranks as perhaps the most intolerable forms of child labour and grossest abuse of the rights of the child. In fact, children are not committing prostitution; they are merely its victims. Adults who offer a child to others and who are the actual beneficiaries are really committing it. Children are being increasingly sold and bought across international borders by organised networks. According to an ILO report,<sup>18</sup> some one million children in Asia alone are victims of sex trade, with reports indicating a rise in trafficking of young girls particularly in Thailand. Several well-defined routes have been identified in Southeast Asia: Myanmar to Thailand, internally within Thailand, and from Thailand to other countries such as China, Japan, Malaysia and the United States. Child victims suffer from extreme emotional, physical and psychological trauma. Increasing numbers fall victims to diseases such as HIV and AIDS.

Child prostitution, including forced prostitution and trafficking of children, is a serious problem in Thailand. The Government estimates that there are as many as 20,000 prostitutes under the age of 18. Prostitution is illegal in Thailand. But it flourishes often with the connivance and patronage of the local officials and the police, who have often vested interests in its continuation. Thailand is a source, transit place, and destination for the trafficking in women and children. Often children are forced into prostitution, but the number of such cases is difficult to determine. The 1996 Prostitution Prevention and Suppression Act makes prostitution illegal and states that customers who patronise child prostitutes are punishable by law. Parents who allow a child to enter the trade are also punishable. However, prosecutions remain low.

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18 “Child Labour : Targeting the Intolerable”, International Labour Conference 86<sup>th</sup> Session Report, Report 6, ILO Document, Geneva, 1996

The Cambodia Country Report on Human Rights for 1998 released by the U.S State Department <sup>19</sup>states that 31% of female prostitutes in Cambodia in 1995 were children in the age group of 12 to 17 years. Half the girls involved were sold into prostitution by their own families. Poverty and domestic violence often drive children on to the streets and a local NGO organisation reports that there are 10,000 children on the streets of Phnom Penh alone where they become easy targets to sexual abuse and exploitation.

The Human Rights Report on Malaysia <sup>20</sup> states that sexual exploitation of children and incest are problem areas in the country. However, deterrent action by the government in the form heavy penal sentences and press publicity tend to limit such cases. Authorities prosecute traffickers in child prostitution vigorously. Thus, only 1117 cases were reported by the Ministry of National Unity and Social Development in 1997. An unfair aspect is that often child prostitutes are treated as delinquents rather than victims.

For Vietnam, there are no reliable statistics on child prostitution. But widespread poverty contributes to continuing trafficking in minors domestically as well as to foreign destinations as prostitutes.

Trafficking in women and children for forced prostitution and forced labour is a problem in the Philippines. The table 1-6 below provides (guess) estimates as indicated by different sources.

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<sup>19</sup> “Country Reports on Human Rights Practices”, Bureau of Democracy, Human Rights and Labour, U.S. Department of State, Feb, 1999.

<sup>20</sup> Ibid

**Table 1-6: Estimates of child prostitution in the Philippines**

<b>Date of publication</b>	<b>Number</b>	<b>Source</b>
not given	3,000 to 20,000 in Manila	Gearin
1993	100000	ECPAT
Not given	20000	Salenlahi
1989	30000	Moorehead
1995	60000	Sachs

(Sources: Moorehead C, *Betrayal: Child Exploitation in Today's World*, Barry & Jenkins, London, 1990, p 256-258; *Tourism & Child Prostitution in Cebu*, ECPAT Publication, Manila, 1994; Salenlahi G, Tuluyan B, *Child Prostitution*, KDF Publication, Philippines, 1993; Sachs A, "The Last Commodity : Child Prostitution in the Developing World" *World Watch*, Vol 7, No. 4, 1994, p 24-30)

In addition to domestic child prostitution, Philippines has an overseas facet to the problem. To quote the 1999 country report on human rights issued by the U.S State Department :

*"Many women and children seek employment overseas and are particularly vulnerable to exploitation by unethical recruiters who promise attractive jobs or, in some cases, arrange marriages with foreign men. Some eventually work as prostitutes or suffer abuse by their foreign employers. The Government has continued its efforts to end illegal recruiting and, by raising age, educational, and professional standards for young women seeking jobs abroad, has tried to discourage employment migration. The 1995 Migrant Workers and Overseas Filipinos Act sought to provide the Government with greater financial resources and improved authority to combat these problems. However, NGO's believe that these measures have not been adequate since traffickers remain numerous and effective in luring women with promises of lucrative overseas*

*contracts. The Government is the host and co-sponsor of the Asian Regional Initiative Against Trafficking in Women and Children, scheduled for March 2000. The goal of this conference is the formulation of a comprehensive action plan to combat trafficking within and from Asia, including strategies for prevention, protection, and prosecution.*

*Child trafficking by illegal recruiters often brought children from poor rural areas to low-paying jobs in cities. The family court system adopted in 1998 has helped expedite juvenile and domestic relations cases and served to strengthen safeguards against the sale and trafficking of children abroad. Previously, less specialised courts had tended to regard children as extensions and property of the parents and to favour parental authority over the rights of a child.”<sup>21</sup>*

Thus, while Thailand has a major problem of child prostitution within its borders, Philippines faces the serious issue of Filipino children being exploited sexually outside its national borders.

## **Services**

The occupations that fall within the ambit of ‘Services’ are large and varied. A large number of children work as domestic servants. They do all kinds of household chores that including cleaning, washing clothes and utensils, baby sitting, running errands and generally helping out in the house and kitchen. In developing countries, children from poor families, particularly girls, work as part-time maids or as full-time domestic help. When working full-time, there are generally no holidays or fixed working hours. The children are expected to be available all the time. For these children there is no possibility of attending schools, though those in part-time domestic help attend school in some cases.

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<sup>21</sup> Ibid p 28

In Philippines, over 300,000 children and adolescent are estimated to be working as domestic servants. Bonded domestic service is also reported to exist in Philippines where children are known to work for urban employers without remuneration to repay loans incurred by their indigent families.

Many domestic servants suffer from physical abuse and psychological trauma. Many girls suffer sexual harassment and become pregnant at a young age. However, in a majority of cases, the plight of these children goes unreported with little hope of redress.

In contrast to the rather invisible nature of domestic service, the street children employed in a variety of out-door occupations are highly visible. Street children work as hawkers selling odd and sundry items at traffic crossings, in roadside shops, restaurants and kiosks, as porters and as shoeshine boys. They live and work in the streets of big towns and cities and are subject to the harsh conditions of urban slums and crime.

### **Manufacturing and Mining:**

Employment of children in large and medium sized enterprises is now rare. This is perhaps because of the attention child labour received in the 19<sup>th</sup> and the early decades of the 20<sup>th</sup> century. However, child workers can still be found in considerable numbers in small workshops or cottage industries. Large industries do contribute to child labour when they subcontract work to small units that employ children. By this arrangement large industries are able to get around national legislation against employing children. Fireworks industry has seen large-scale employment of children in several countries, including the Philippine. The work involved is highly hazardous and

children risk accidental explosions. Exposure to gunpowder also leads to respiratory problems.

A list of industries where children work in Philippines and Thailand is presented in column 2 of Table 1.7.

**Table 1.7: Examples of Where Children Work**

<b>Country</b>	<b>Agriculture and Fishing</b>	<b>Manufacturing, Mining and Quarrying</b>	<b>Services</b>
<b>Cambodia</b>	Rice cultivation, Fruit plantations, poultry farms	Brick factory workers, Salt processing, Small scale industries	Garbage dump cleaners, domestic workers, sex workers, construction workers, grocery shops, peddlers, newspaper sellers
<b>Malaysia</b>	Commercial Agriculture, Palm Oil plantation, Cocoa Plantation	Home industries	Street hawkers, helpers in small shops, domestic servants, newspaper sellers, child prostitution

<b>Philippines</b>	Fishing; forestry/ logging; fruits and vegetables (e.g. corn); palm plantations; poultry farms; <b>rattan</b> ; rice; seaweed; sugar cane	Charcoal production; coconut processing; <b>cooking oil</b> ; fireworks; fish packing/processing; food products; garments and embroidery; gold mining; handicrafts; mat-weaving/sewing; metal working; factory; <b>print shops</b> ; sardine stone quarrying; wood and rattan/buri/bamboo furniture; wood products	Bars; car guards; car washers; catering; commercial sex workers; construction; cooks; dancers; domestic servants; entertainers; gas stations; grocery/bakeshops; janitors; newspapers sales; porters; receptionists; restaurants; stevedores; street vendors; wholesale/retail trade
<b>Vietnam</b>	Agricultural workers, Forestry workers	Handicraft industry	Street Hawkers, Scrap collectors, domestic helpers, labourers, child prostitution
<b>Thailand</b>	Fishing; garlic; lychee; onions; rubber; shrimp and other seafood; <b>sugar cane</b>	Artificial flowers; candy wrapping; dolls; embroidery; fishing net production; footwear; <b>garments</b> ; gems; glass; leather; <b>paper cups</b> ; plastic products; rattan and wood furniture; <b>shrimp</b> and seafood processing; silver jewellery	Bakeries; car washers; <b>commercial sex workers</b> construction; delivery boys/porters; domestic servants; gas stations; <i>karaoke</i> ; mechanical repair shops; restaurants; retail shops; street vendors
For highlighted industries/occupations, there have been reports of forced or bonded child labour.			

(Source for Thailand and the Philippines: By The Sweat and Toil of Children: Volume 5: Efforts to Eliminate Child Labour. U.S Department of Labour, Bureau of International labour Affairs, 1998. Highlighted industries refer to possibility of use of forced labour. For other Countries: Compiled from numerous sources)

### **Analysis of the Causes:**

The primary motivation to employ children is economic. Unless they are cost-effective, there will be no demand for child labour. The very fact that this practice is widespread proves that child labour is cheaper per unit goods and services produced compared to adult labour. Moreover, a large proportion of the children is employed in family businesses where their labour is available to the family at no cost. The very viability of such family enterprises may hinge on the unpaid labour of these children. Even where children work outside the family enterprise they are paid less than adults.

There is very little information on payments made to children employed in the worst forms of child labour. It may be wrong to conclude that the payments here will be more considering the dangerous, depraved or hazardous nature of work. Such enterprises are run by criminal elements that operate illegally with uninhibited greed and profit as their primary motive. It is difficult to expect them to be sympathetic and generous to their child victims.

Often, employers may prefer children to adults for reasons other than economic. Child workers are likely to be less troublesome and more willing to accept the authority of the employer and to perform routine and monotonous work without complaining. They do not form trade unions, are seldom aware of their exploited plight and easier to hire and fire. They also form a valuable source of casual labour where demands for work are cyclic or seasonal in nature. This perhaps explains the large-scale use of child labour in agriculture. As domestic servants, children are generally considered to be safer to employ. Many households hesitate to employ adult domestic help fearing security risks.



Another circumstance of child labour arises when the child helps his parents in their work. This is so in small-scale industries where payment is made on the number of units produced. Thus general chip in to add the total number of units produced, thereby adding to the family income. The girl child commonly helps her mother working as part time maids in middle class households.

Not only the demand, the supply of child labour also depends on economic factors. Poverty is the principal cause for the easy availability of child labour. Thus, poverty is both the cause and consequence of child labour. They reinforce each other; poverty giving rise to child labour and child labour perpetuating poverty. Because child labour excludes or restricts access to education and jeopardizes the chances of upward social mobility, it perpetuates poverty. The lack of education impacts on earnings throughout life. Thus, child labour depreciates the human capital of a nation and society. These are terrible long-term costs that are forgotten in the daily struggle of the poor to subsist.

Children of poor single parent families, particularly those headed by the mother are more prone to enter child labour. This situation also applies where the father abdicates his responsibilities due to social maladies such as drunkardness or drug addiction.

An important cultural cause is gender bias, which contributes to female child labour. The girl child is discriminated against in many cultures, particularly in Asia and Africa. Poor parents tend to use their limited economic resources for the education of their male offspring to the disadvantage of the girl child. The girl child is expected to tend the younger siblings and help out her mother in her employment.

## CHAPTER 2

### THE POLITICAL DIMENSIONS OF CHILD LABOUR

#### **Introduction:**

The political dimensions of child labour relate to the functions performed by the national governments concerning the practice of child labour. The respective national governments must formulate policy guidelines and goals, enact laws, establish competent enforcement mechanisms, provide the economic resources and generally do whatever is needed to progressively eradicate child labour practices within their national boundaries. In fact, a reliable measure of the political will of the national governments is the effectiveness of the national legislation and the enforcement mechanisms implemented by them. Child labour is being increasingly recognized as a common problem of all humanity.<sup>1</sup> This is the prime motivation behind the growing body of international standards on the subject. Often, national legislation borrows considerably from international enactment. Thus, international standards have a key role to play in guiding, and moulding the perceptions and policies of national governments and their peoples.

This chapter examines current international standards on child labour. Three conventions have been considered for detailed discussions – the UN Convention on the Rights of the Child, the Minimum Age Convention (C138) and the Convention on the Worst forms of Child Labour (C182). These three instruments form the backbone of international standardization on the subject. Also examined are the national legislation in the five ASEAN countries under study and the status of enforcement of respective national laws. An

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<sup>1</sup> Gay Kathlyn, *Child Labour: A Global Crisis*, September, p 5

assessment is made concerning the compliance to international standards by national laws of the selected countries. Finally, the role and efficacy of the legislation in the fight against child labour is considered.

## **International Standards on Child Labour**

### **UN Convention on the Rights of the Child:**

Child labour strikes at the basic rights of the child. Therefore, the most important convention on the subject is the UN Convention on the Rights of the Child.<sup>2</sup> For the purpose of the convention, a child means every human being below the age of eighteen years. The significance of the convention lies in its universal acceptance; all the countries except two have ratified it. The convention recognizes the universal nature of child labour by stating at the outset: “...*in all countries of the world, there are children living in exceptionally difficult conditions, and that such children need special consideration*”

Though child labour is not explicitly mentioned, it is not hard to surmise that ‘exceptionally difficult conditions’ also includes child labour.

Among the various rights and freedoms provided under the convention, the right to education is of particular significance because education and child labour are closely linked aspects – one of the major objections to child labour being the impediment it creates in the education of the child.

Article 28(1) of the Convention states:

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<sup>2</sup> Convention on the Rights of the Child, Annex 44, Supplement No. 49, U.N Document A/44/49, 1989.

1. *States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity they shall in particular:*

*(a) Make primary education compulsory and available free to all*

*(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to all children; and take appropriate measures such as the introduction of free education and offering financial assistance in case of need.*

*(c) Make higher education accessible to all on the basis of capacity by appropriate means.*

*(d) Make educational and vocational information and guidance available and accessible to all children*

*(e) Take measures to encourage regular attendance at schools and the reduction of drop out rates*

*(f) Make higher education available*

Articles 32 to 35 specifically deal with child labour.

Under Article 32(1):

*“State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to*

*interfere with the child's education, or to be harmful to the child's health or physical, mental, moral, spiritual or social development."*

Article 32(2) enjoins the state parties to (a) provide for a minimum age for admission to employment, (b) provide for appropriate regulation of the hours and conditions of employment (c) provide for appropriate penalties and other sanctions to ensure effective implementation

Article 33 deals with measures necessary to protect children from the illicit use of narcotic drugs and to prevent them from being used in production and trafficking of drugs.

Article 34 aims at protection of the child from all forms of sexual exploitation and abuse.

Article 35 prohibits sale and trafficking of children.

The U.N Convention of the Rights of the Child catalyzed the movement against child labour. It symbolized a universal aspiration to rectify the wrongs committed on human progeny. Throughout the 1990s, child labour movement drew inspiration from this convention which provided an integrated and holistic approach for the overall development of children. In its significance, this Convention of 1989 can be compared with the Universal Declaration of Human Rights of 1948. It took the world more than 40 years to make this journey.

### **ILO Standards:**

The International Labour Organization (ILO) since its very inception in 1919 has played an active part in formulating international standards on child

labour. An important category of standards to the minimum age for children for entry in the work force.

### **Minimum Age Conventions:**

Between the two world wars, the ILO enacted eight Minimum Age Conventions for employment in different sectors of the economy. Subsequently, in 1959 and 1965 two more were added. These ten conventions are listed in Table 2-1.

**Table 2-1: Sector-wise Minimum age conventions**

<b>Year</b>	<b>Applicable sector</b>
Minimum Age Convention of 1919	Industry
Minimum Age Convention of 1920	Sea
Minimum Age Convention of 1921	Agriculture
Minimum Age Convention of 1921	Trimmers and Stokers
Minimum Age Convention of 1932	Non-Industrial Employment
Minimum Age Convention (Revised) of 1936	Sea
Minimum Age Convention (Revised) of 1937	Industry
Minimum Age Convention of 1937	Non-Industrial Employment
Minimum Age Convention of 1959,	Fishermen
Minimum Age Convention of 1965	Underground Work

In 1973, by the Minimum Age Convention No. 138,<sup>3</sup> the ILO decided to abandon the practice of specifying minimum age for work on a sector by sector basis. Instead, a common minimum age criteria was specified that would apply generally to all sectors. The ILO's Minimum Age Convention of 1973, is now regarded as the fundamental standard on child labour. Table 2-2 summarizes the Minimum age criteria of the 1973 convention:

<sup>3</sup> "Child Labour: Targeting the Intolerable", 89<sup>th</sup> Session International Labour Conference, Report 6, 1998.

**Table 2-2: Summary of Minimum age criteria of the ILO convention 138, 1973**

General Minimum (Article 2)	Age	Light Work (Article 7)	Hazardous Work (Article 3)
Under Normal Circumstances			
15 years or more (Not less than the compulsory school age)	13 years	to 15 years	18 years (16 years under certain conditions)
Where economy and other educational facilities are insufficiently developed			
14 years	12 years	to 14 years	18 years (16 years under certain conditions)

The 1973 convention is the latest on the minimum age criteria. The objective as stated in Article 1 is to *"ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons."* The minimum age for work should be such that it permits the completion of compulsory schooling, and this intention is reflected in Article 2 of the convention. The child should also be at least 15 years of age. Refer

Table 2-1. But this objective is significantly diluted by various other articles and provisions of the Convention. For example:

- Under Article 2 itself, "*a member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify an age of 14 years.*"
- Under Article 4, for a limited category of employment and work, where there are serious problems in implementing the provisions, the Member State may decide not to apply the minimum age criteria. Likewise Article 5 permits member States whose economy and administrative facilities are insufficiently developed, to limit the scope of application of the convention.
- Under Article 7, the minimum age is relaxed to 13-15 years for light work. A further relaxation to 12-14 years exists for member states whose economy and administrative facilities are not sufficiently developed.
- Article 7 also permits employment of persons who are at least 15 years old for light work, even if they have not completed their compulsory education.

The above provisions dilute the 15-year age limit, essentially on two counts:

(a) Where light work is involved

(b) Where the economy and administrative facilities of member state are insufficiently developed.



Light work has been described as one that is not likely to harm the health or development of the child and that, which would not affect his attendance at school. This rather broad and imprecise description can be misused. Furthermore, no explanation exists in the convention on what is meant by 'insufficiently developed economy and administrative facilities'. It may be possible to evaluate economic development in terms of well-known parameters such as the human development index, GDP etc. But the level of development of administrative facilities is hard to quantify. The Convention leaves the judgement on these issues to member states.

However, a higher age limit has been specified for work that is hazardous in nature. Thus according to Article 3, *"the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years."* A provision for relaxation to 16 years exists based on national laws of the member states on fulfillment of certain conditions. The conditions are that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

The Convention also provides guidance for determination of hazardous work. It points towards dangerous substances, agents and processes (including ionizing radiation), the lifting of heavy objects and underground work. It also underscores the need for periodic review in consultation with employers and workers organizations to update items of work that can be termed as hazardous

The Convention allows for exclusion of limited categories of employment or work, which raise special and substantial problems of application. What

these limited categories of employment or work could be is not specified. However, during the discussions leading to framing of the Convention; reference was made to employment in family undertakings, domestic service in private households and some types of works carried out without the employer's supervision, for example, homework. These exclusions were foreseen mainly because of practical difficulties of enforcing laws in the categories in question, which are less visible forms of child labour, and not because of possible exploitation or abuse in these situations.<sup>4</sup>

It is seen that the Minimum Age Convention makes too many concessions and leaves several escape routes that could significantly compromise the implementation of the Convention by the ratifying states. However, any such instrument must inevitably take cognizance of the ground realities. This perhaps is the rationale behind the flexibility manifest in some of the provisions.

Supplementing the C138 Convention is the R146 Minimum Age Recommendation, 1973.<sup>5</sup> The recommendations lay stress on devising appropriate national policy that would provide high priority in planning and meeting the needs of children and youth in national development. It also underscores the need for national governments to commit themselves to full employment in accordance with the Employment Policy Convention of 1964.<sup>6</sup> It also recommends that the objective should be progressively raise the minimum age for employment for light work to 16 years. Also, in countries where the minimum age for entry into work of hazardous nature is below 18, immediate steps should be taken to raise it to 18 years.

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<sup>4</sup> C 138: Minimum Age Convention, ILO Document, 1933.

<sup>5</sup> R 146: Minimum Age Recommendation, ILO Document, 1973

<sup>6</sup> C 122: Employment Policy Convention, ILO Document, 1964.

## **Conventions on the Worst Forms of child labor**

With the growing impatience witnessed throughout the 1990s, came a realization that child labour in all its forms can not be realistically eradicated in the near future. In fact, it is even premature to estimate a time frame for complete eradication, though the ILO Director General Michel Hansenne made a bold statement at an international meeting in 1997:

*“ The war against child labour is being won, and it can be won in all countries of the world in the next 15 years.”*

Total eradication being a far way off, the next best step was to at least minimize the suffering by eliminating the most obnoxious forms of this practice and ILO's convention C182 of 1999 <sup>7</sup> strives to achieve this goal. However, C182 is not the first convention on the subject. Some of the worst forms of labor are covered by earlier international instruments, which included children. These are:

- ILO Forced Labor Convention No. C29, 1930
- Constitution of the ILO - Article 22
- ILO Forced Labor (Indirect Compulsion) Recommendation (R35), 1930
- ILO Forced Labor (Regulation) Recommendation (R36), 1930
- United Nations Supplementary Convention on Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, 1956

Article 1 of the C182 Convention of ILO requires each member who ratifies the Convention "to take immediate and effective measures to secure the

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<sup>7</sup> C 182: Worst Forms of Child Labour Convention, ILO Document, 1999.

prohibition and elimination of the worst forms of child labour as a matter of urgency."

Article 3 of this Convention describes the worst forms of child labour to comprise of any of the following categories:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour including forced or compulsory recruitment of children for use in armed conflict
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances
- (c) the use, procuring or offering of a child for illicit activities, in particular for production and trafficking of drugs
- (d) work which by its very nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

While (a) to (c) above involve inhuman and depraved activities, (d) refers to the safety and health hazards. The effect of safety and health hazards may be very serious for children and are rightly included in the definition of worst form of labour.. This has been brought out in a study on children in hazardous work, as follows:

*"A growing body of research indicates that, because of anatomical differences between children and adults, child workers are considerably more vulnerable to workplace hazards. Age seems to be an important factor in the effect of toxic chemicals, and children exposed to them early tend to become ill or disabled much more quickly than do adults with similar exposure. Children are more susceptible to thermal stress and environmental changes, and are more vulnerable to carcinogens, and if*

*exposed to them the probability of their developing cancer is greater than that of adults having equal exposure. Furthermore, children how work are more likely than adults to suffer occupational injuries owing to inattention, fatigue, poor judgement, insufficient knowledge of work processes, and the fact that equipment, machinery and tools are designed for adults”<sup>8</sup>*

As of March 2000, eleven countries have ratified the C182 Convention. These are Belize, Botswana, Brazil, Finland, Ireland, Malawi, San Marino, Seychelles, Slovakia, Tunisia and United States.

The practical steps that ratifying nations need to take are listed in Article 7 of the Convention, which includes:

1. Measures to ensure the effective implementation and enforcement of the provisions
2. Taking into account of the importance of education in eliminating child labour, take effective and time-bound measures to
  - Prevent the engagement of children in the worst forms of child labour
  - Provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration

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<sup>8</sup> Bequele A & Myers W.E. *First Things First in Child Labour: Eliminating Work Deterimental to Children*, UNICEF Publication, Geneva, July 1995, p 17-21.

- Ensure access to basic free education, and where ever possible vocational training for all children removed from the worst forms of child labour.
- Identify and reach out to children at special risk; and
- Take account of the special situations of girls.

Following the C182 Convention, the ILO adopted a set of recommendations, designated R190: Worst Forms of Child Labour Recommendation, 1999.<sup>9</sup> These recommendations supplement the C182 Convention and furnish guidance to ratifying Member States in implementing the Convention. Among other things, the recommendations provide guidelines for determining 'worst forms of labour'. These include

- (a) Work which exposes children to physical, psychological or sexual abuse.
- (b) Underground, underwater, or work at dangerous heights or in confined spaces.
- (c) Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads
- (d) Work in an unhealthy environment, which may for example, expose children to hazardous substances, agents and processes or to temperatures, noise levels or vibrations damaging to their health.
- (e) Work under particularly difficult conditions, such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

R146 also recommends various steps for strengthening of the implementation and enforcement machinery by member states. It exhorts the

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<sup>9</sup> Opening doors : A presentation of laws protecting Filipino child workers, Ateneo Human Rights Centre Publication, 1997, p 21.

ratifying states to prohibit and eliminate the worst forms of child labour urgently.

### **National Legislation in Select ASEAN Countries and their Status of Enforcement:**

National legislation and their enforcement are two sides of the same coin. To be effective they must go hand in hand. For this reason, national legislation must be considered along with the progress in their implementation. This is the approach followed in this section.

Detailed description of national laws on child labour is provided for two countries, namely, Thailand and Philippines. These countries are chosen to demonstrate a paradox: despite stringent legislation these two countries suffer the problem of child labour in its most acute form, as exhibited by widespread child prostitution and trafficking which has been described in Chapter 1. Clearly, the enforcement mechanism is feeble in these two countries. The record of the other three other countries in this context of their national legislation is examined and presented in a tabular fashion.

#### ***Philippines:***

The Philippines ratified the UN Convention of the Rights of the Child in 1990. The Constitution of the Philippines (1987) charges the State with safeguarding the rights of the child:

*"The State shall defend...the right of children to assistance including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development"*

Main provisions concerning child labour are summarized below:

- The minimum age for work is specified under Article 139 of the Labour code of 1993.<sup>10</sup> This article stipulates the following:

*a) Prohibits the employment of a child below 15 years except when he works under the sole responsibility of his parents or guardian, and his employment does not in any way interfere with his schooling.*

*b) Any person between 15 and 18 years of age may be employed for such number of hours and such periods of the day as determined by the Secretary of Labor in appropriate regulations.*

*c) The foregoing provisions shall in no case allow the employment of a person below 18 years of age in an undertaking, which is hazardous or deleterious in nature as determined by the Secretary of Labor.*

- Article 146 of the 1993 labour code protects the interests of domestic workers as follows:

*If a house helper is under the age of 18 years, the employer shall give him or her an opportunity for at least elementary education. The cost of such education shall be part of the house helper's compensation, unless there is a stipulation to the contrary.*

- 'Special Protection of Children Against Child Abuse, Exploitation and Discrimination-Act.'<sup>11</sup> was enacted in 1992. Section 7 of this act specifies

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<sup>10</sup> Ibid p 48.

<sup>11</sup> Special Protection of Filipino Children, Philippine Commission in Human Rights Centre, 1994.



penalties for child trafficking. Maximum penalty under the act is specified when the victim is under 12 years.

- Republic Act No. 7658, 1993<sup>12</sup> while reiterating that the minimum age of employment shall be 15 years (as also stated in Article 139 of the 1993 Labour Act), details the various exceptions to this rule. These are reproduced below:

*"The following shall be the only exceptions to the prohibition on the employment of children below 15 years of age and the conditions for the availment of said exceptions.*

*a. When the child works directly under the sole responsibility of his/her parents or legal guardian who employ members of his/her family only, under the following conditions:*

*1) the employment does not endanger the child's life, safety, health, and morals;*

*2) the employment does not impair the child's normal development;*

*3) The employer parent or legal guardian provides the child with the primary and/or secondary education prescribed by the Department of Education Culture or Sports.*

*b. Where the child's employment of participation in public entertainment or information through cinema, theater radio or television is essential, provided that: 1) the employment does not involve advertisements or commercials promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products,*

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<sup>12</sup> Ibid p 48

*or exhibiting violence; 2) there is a written contract approved by the Department of Labor and Employment; ...."*

Though the exceptions appear to be well thought of and reasonable, the penalties for violation are too light to discourage violations. Violators "shall suffer the penalty of a fine of not less than 1,000 Pesos but not more than 10,000 Pesos [US\$ 25 to US\$ 253] or imprisonment of not less than three (3) months but not more than three (3) years, or both at the discretion of the court: Provided, that, in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked."

A general provision on child welfare is included in Article 3(8) of the Presidential Decree 603 of 1974:<sup>13</sup>

*"Every child has a right to protection against exploitation, improper influence, hazards and other conditions and circumstances prejudicial to his physical, mental, emotional and moral development."*

Under the Policy Directive No. 23 <sup>14</sup>night work young persons under the age of 16 years is prohibited in the interval between 10.00 PM to 6 AM of the following day.

### **Thailand:**

The Constitution of Thailand, 1991 (amended in 1995) <sup>15</sup> enjoins the "state to assist people of working age to obtain employment and shall ensure the fair protection of labour, especially children and women workers, and

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<sup>13</sup> "The Child and Youth Welfare Code", *A comprehensive Study of Child Labour in the Philippines*, PHRC Publication, 1974.

<sup>14</sup> Ibid

<sup>15</sup> Policies and Selected Programs on Child Labour, Ministry of Labour and social Welfare Publication, Bangkok, July, 1997, page 453-457.

*provide for the system of labour relations, including the settlement of fair wages.”*

Provisions on Labour Protection Act of 1998 <sup>16</sup> include the following:

- Prohibits the employer, supervisor or inspector from sexually harassing women and child employees. (Section 16)
- An underage employee (Children in the 15 to 18 age group) shall be given a break of not less than one consecutive hour after having worked consecutively for not more than four hours (Section 46)
- An employer shall not hire a child who is under eighteen years of age to work during 22:00 hrs - 06:00 hrs, unless approved in writing by the Director-General or by a person entrusted by the Director-General.(Section 47)
- Section 49 describes various types of hazardous works and prohibits employment of children below eighteen in such works. The works are listed as under:
  - 1) Smelting, blasting, casting or rolling of metals;
  - 2) Metal casing in blocks;
  - 3) Work related to heat, coolness, vibration, noise and light at excessive degrees which may be harmful, as prescribed by ministerial regulation;
  - 4) Work in connection with such hazardous chemicals as prescribed by ministerial regulation;
  - 5) Work with toxic microorganisms, which may be viruses, bacteria, fungus, or such other diseases as prescribed by ministerial regulation;

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<sup>16</sup> Labour Protection Act, B.E. 2541, Thailand, 1998.

- 6) Work connected with toxic substances, explosives or highly inflammable materials, except for work at gas stations as fixed in the ministerial regulations;
- 7) Driving controlling a fork-lift truck or a crane;
- 8) Work for which an electric saw or a motor-driven saw must be used;
- 9) Work that must be performed underground, underwater in a cave, in a tunnel, or at a crater
- 10) Work connected with radiation
- 11) Cleaning of machines and engines while they are switched on
- 12) Work on scaffolding above 10 metres from the ground level

The list is fairly comprehensive and perhaps represents the most detailed provision among the five select countries.

Under the Prostitution Prevention and Suppression Act of 1996<sup>17</sup> stringent punishments are prescribed for those found guilty of child prostitution. Such an offence, committed against a child not over 15 years of age, is punishable with imprisonment of ten to twenty years of imprisonment and a fine of 200,000 to 400,000 baht [US \$ 5,500 to US \$11,000]. Similar punishment is also prescribed for pimps. Similar provisions also exist for prevention of child trafficking.<sup>18</sup>

***National laws vis-à-vis Enforcement status in Cambodia, Malaysia and Vietnam:***

In Cambodia, Malaysia and Vietnam, the chasm between the law and its implementation is significant but not so acute. Table 2-3 presents a comparison.

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<sup>17</sup> Prostitution Prevention and Suppression Act, B.E 2539, Thailand 1996.

<sup>18</sup> Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540, Thailand 1997.

**Table 2-3: National Laws and Status of Enforcement**

National Laws of Cambodia	Status of Enforcement
<p>Forced or compulsory labour is prohibited, including children</p>	<p>The Government does not enforce this law adequately.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Mandatory overtime in the garment industry.</li> <li>• Girls being forced to work as prostitutes (30% of prostitutes below 17 years, according to a 1995 NGO report)</li> <li>• Children kidnapped and forced to work in illegal sex trade</li> </ul>
<p>The Law on the Exploitation and Trafficking of Humans (1996) provides for a jail sentence of from 15 to 20 years for any person convicted of trafficking in persons under the age of 15.</p>	<ul style="list-style-type: none"> <li>• Bonded labor does not appear to be widespread. However             <ul style="list-style-type: none"> <li>(a) Reports of bonded labor in the wood-processing, rubber, and brick manufacturing industries</li> <li>(b) There were also reports that military officers have implemented the forced conscription of both adults and children. This is denied by the government.</li> </ul> </li> <li>• Credible reports of trafficking in children.</li> </ul>
<p>The Labor Law establishes 15 years as the minimum age for employment. However, the law permits children between the ages of 12</p>	<ul style="list-style-type: none"> <li>• The Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation has not set up an apparatus to enforce this law and has not published a list of</li> </ul>

and 15 to engage in "light work" that is not hazardous to their health and does not affect school attendance.

occupations considered acceptable for minors.

- A labor advisory committee responsible for setting industry minimum wage rates and specifying particular occupations that are hazardous to the health, safety, or morality of adolescents and where workers under age 18 can not be employed. The committee is also responsible for consulting with the Ministry of Labor to determine the types of employment and working conditions that constitute "light work" for children between the ages of 12 and 15.
- Children under the age of 15 routinely engage in a variety of jobs, including street trading, construction, agriculture, and small-scale manufacturing. According to an ILO study, 9.2 percent of children are "economically active."
- Inadequate educational system. Despite an extensive government school construction program, schools are overcrowded and short of equipment. Less than 5 percent of primary school teachers have completed high school. The Government does not deny girls equal access to education, but in practice families with limited resources often give priority to educating boys.

<p>Sexual intercourse with a minor under the age of 15 is illegal</p>	<ul style="list-style-type: none"> <li>• Child prostitution is not uncommon. Credible reports of children being kidnapped in some provinces and forced into the illegal sex trade, both in Cambodia and abroad</li> </ul>
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<b>National Laws of Vietnam</b>	<b>Status of Enforcement</b>
<p>Force and bonded labour are not prohibited expressly by law.</p>	<ul style="list-style-type: none"> <li>• There may be a few cases of bonded labour. From Ho Chi Minh city there are reports that poor parents entered into verbal agreement with employers where the salaries of children are sent directly to the parents.</li> </ul>
<ul style="list-style-type: none"> <li>• Labour laws set the minimum age of employment as 18 years.</li> <li>• However, enterprises can employ children between the ages of 15 and 18 years after obtaining a special permission of the Ministry of Labour, Invalids and Social Welfare. The occupations for which this permission can be sought are listed out and this does not include any hazardous occupation. They cannot work more than 7 hours per day or 42 hours per week and must receive special health care.</li> <li>•</li> </ul>	<p>There were no reports that state-owned enterprises or companies with foreign investors used child labor.</p> <ul style="list-style-type: none"> <li>• Child labour is common in agriculture and in domestic services. A government estimate placed the number of children under the age of 15 employed in exploitative economic practices at 29,000 in 1997. This does not seem to include large numbers employed in the informal sector.</li> <li>• The Ministry of Labour in coordination with local people's committee is charged with enforcing the regulations. It is uncertain whether the government has the inspection mechanism to enforce the law. There are 300 labour inspectors in the country though at least 600 are needed.</li> </ul>
<ul style="list-style-type: none"> <li>• There are compulsory education laws</li> </ul>	<p>There is a strong cultural tradition to send children to school, though children employed in rural areas may</p>

	miss out on education where families are poor.
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<b>National Laws of Malaysia</b>	<b>Status of Enforcement</b>
<ul style="list-style-type: none"> <li>• The Constitution prohibits forced or compulsory labor, including children</li> </ul>	<ul style="list-style-type: none"> <li>• The Government enforces this prohibition.</li> <li>• However, some women and girls may be forced into prostitution by traffickers in women for sexual exploitation</li> <li>• Bonded labor is rare and not condoned by the Government.</li> </ul>
<ul style="list-style-type: none"> <li>• The Children and Young Persons (Employment) Act of 1966 prohibits the employment of children younger than the age of 14.</li> <li>• The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.</li> </ul>	<ul style="list-style-type: none"> <li>• Child labor occurs in certain sectors of the country. A 1993 joint report by the International Confederation of Free Trade Unions and the Asian and Pacific Regional Organization put the child work force at 75,000. However, government officials maintain that this figure is outdated, since it was based on a nationwide survey of child labor undertaken in 1980, which estimated that more than 73,400 children between the ages of 10 and 14 were employed full time. There is no reliable recent estimate of the number of child workers. Most child laborers work in the urban informal sector in food businesses, night markets, and small-scale industries, as well as on rubber and palm oil plantations. Government officials do not deny the existence of child labor but maintain that foreign workers largely have replaced child labor and that the Government vigorously enforces child labor provisions</li> </ul>



### **Extent of Compliance of National Laws to International Standards:**

The Minimum age for employment is an important aspect of the child labour issue. Several ILO Conventions from 1919 to 1973 were devoted to this aspect. (Refer Table 2-1). Thus, it is important to examine the status of national legislation on this aspect in the five select countries. This is presented in Table 2-4. Because, the minimum age for work is closely related to opportunities for basic education, this table also includes age limits for compulsory education in the five countries.

**Table 2-4: Age criteria for compulsory education and work in select ASEAN countries**

<b>Country</b>	<b>Age limits for compulsory education</b>	<b>Basic Minimum age for work</b>	<b>Minimum age for light work</b>	<b>Minimum age for Dangerous/Hazardous work</b>
1. Cambodia	6-12	16	-	18
2. Malaysia	6-16	14	No limit	16
3. Philippines	7-13	15	No limit	18
4. Thailand	6-11	13	13 to 15	15-18
5. Vietnam	6-11	15	-	18

(Source: Based on national legislation of different countries)

It is seen that Cambodia sets the basic minimum age of work that is better (higher) than that prescribed under the ILO's C138 Convention. Two countries, Vietnam and Philippines, equal the international standard for basic minimum age of work under normal conditions, while Thailand and Malaysia set lower age limits of 13 and 14 years respectively.

For entry to hazardous work, Cambodia and Philippines entirely meet the ILO standards of 18 years. By prescribing an age band of 15 to 18 years, Thailand does not meet the stipulation of C138, because even with relaxation, the age limit for hazardous work can not be lower than 16 years. Malaysia also does not appear to meet international standards for minimum age for hazardous work.

For light work only Thailand meets the C138 requirements; Malaysia and Philippines set no lower limit while this aspect is not covered in the laws of Cambodia and Vietnam.

However, amongst the five countries, Malaysia has the longest time span for compulsory education - 11 years (6-16 years). But because the minimum age for work is only 14 years, national legislation implies that during the last 2 years of their compulsory basic education, children may combine work with education.

The ratification record of various ILO conventions on child labour is shown in Table 2-5. Only Malaysia and Philippines have ratified the C138 Convention so far; the other three countries are yet to ratify it. The C 182 convention has not been included in the table, because none of the five countries have ratified it yet. However, the Forced Labour Convention (C29) of 1930 has been ratified by Cambodia, Malaysia and Thailand. Thus, the existing ratification record of the five countries under study is not impressive.

**Table 2-5: Ratification of ILO Conventions**

Country	C5	C7	C15	C59	C123	C138	C29
Cambodia	-	-	-	-	-	-	Ratified
Malaysia	-	Ratified	Ratified	-	Ratified	Ratified	Ratified
Philippines	-	-	-	Ratified	-	Ratified	-

Thailand	-	-	-	-	Ratified	-	Ratified
Vietnam	Ratified	-	-	-	Ratified	-	-

As discussed in the previous section, ILO recommendation R190 furnish guidelines for identifying the worst forms of child labour which also includes hazardous work. Thus, national legislation should

- (a) Clearly identify and specify details of work that should be considered hazardous.
- (b) Prohibit below a certain minimum age each item of work identified at (a) above.

Unless the national legislation provides proper details of what work is hazardous, the law would remain vague and poor enforcement will be the likely outcome. Table 2-6 is constructed to examine this aspect in the national legislation of the selected countries. Study of this table clearly indicates that except for Thailand, the other four countries have not carried out a detailed identification of hazardous activities.

Thus, there is a clear need to undertake a study of hazardous activities, including handling of dangerous material in each of these countries. It would be desirable if this study were carried out under the umbrella of ASEAN for the countries in the region. Once a harmonious list of hazardous work is drawn up, each country can carry out national legislation separately.

**Table 2-6: Prohibitions concerning hazardous work**

<b>General prohibition/Prohibited industry, activity or occupation</b>	<b>Minimum Age</b>	<b>Country</b>
<ul style="list-style-type: none"><li>• Dangerous to safety</li><li>• Physically Arduous</li></ul>	18	Vietnam



<ul style="list-style-type: none"> <li>• General Provisions for exposure to Chemicals</li> <li>• Explosives</li> <li>• Radioactive substances or ionizing radiation</li> <li>• Entertainment (night clubs, bars, casinos, circuses, gambling halls)</li> <li>• Forestry</li> <li>• Maritime work (Trimmers and stokers)</li> <li>• Mining, quarries, underground work</li> <li>• Transportation, operating vehicles</li> </ul>	18	Philippines
<ul style="list-style-type: none"> <li>• Machinery in motion</li> </ul>	16	Malaysia
<ul style="list-style-type: none"> <li>• Mining, quarries, underground work</li> </ul>	18	Cambodia

### **Role of Legislation in Combating Child Labour:**

Most countries rely heavily on legislation in their attempt to regulate and eradicate child labour. But if the current status of the problem is any guide, mere reliance on national laws cannot resolve the problem. This is not to say that laws against child labour are not needed. Indeed, law making is an important step – but only a step, not a total solution to the problem. The child labour issue has economic and social dimensions. Poverty and ignorance are both its causes and consequence and these factors can not be tackled merely by law making.

While law making may not be the answer for general child labour, the worst forms of child labour as witnessed in child prostitution, child trafficking and employment of children in hazardous work, must be fought with the full force of the law. The worst forms of child labour arise from human avarice and greed – not out of economic necessity. It is therefore necessary for the national legislation to consider them as heinous crimes and prescribe deterrent punishments for the offenders. Indeed, this is the approach followed by several countries such as Thailand and Philippines. Why then despite stringent laws the worst forms of child labour still persists widely? Plausible explanations could be:

- Child prostitution and trafficking have become chronic problems that would need time and persistent action for elimination
- Prostitution has been traditionally condoned and has got deeply entrenched in the social fabric
- Some stringent laws are of recent origin, for example, the Prostitution Prevention and Suppression Act of 1996 in Thailand
- Deep rooted corruption of government officials and the police inhibits enforcement efforts at the ground level
- Most importantly, lack of political will on the part of the national governments

Even for the general forms of child labour, a solid legislative framework is essential in bringing about social change and progress for realizing the legitimate rights of the child. Laws do provide a blueprint for social action and create a sense of right and wrong in the society. Thus, laws are important even when child labour is considered as a social malaise. While taking account of local conditions and norms, national legislation must conform to international standards. This is necessary for the self-image of the country as also the image it projects in the region and to the world at large. Child labour has a lot

to do with moral posturing. Countries with lax laws in this regard, run the risk of being considered moral outcasts. Thus, these pressures also impel nations to move forward towards more progressive child labour laws.

How much of law making is sufficient? There can be no definitive answers. Lax laws are undesirable and will only exacerbate the problem. Rigid laws may be difficult to implement as a large proportion of child labour is of the invisible form, for example, in agriculture and domestic services. Laws that are followed only in their violation have serious repercussions. This situation creates a cynical disdain for the law in the minds of the people and undermines the credibility and authority of the government. Thus, for a complex issue such as child labour, a balanced approach should be followed in framing legislation. The legislation must be realistic and based on assumptions and goals that are achievable. Legislation should be progressively tightened as progress is made in reducing child labour. Most importantly, eliminating child labour should remain the final goal of legislation. Legislation on child labour should be designed progressively such that they gently coax, encourage, prod and finally, goad and compel the society and the nation in eliminating child labour. Thus, legislation must be used as one of the tools in the fight against child labour.



## CHAPTER 3

### THE ECONOMICS OF CHILD LABOUR

#### Introduction

There are two categories of actors involved in the economics of child labour – the employers of working children on the one hand, and the child worker (along with his family) on the other. Both the parties must perceive an economic advantage for this practice to continue and flourish.

The employers of the child worker clearly perceive an economic advantage in this transaction, where ‘equal pay for equal work’ is not the rule. The child worker is paid considerably less than an adult worker is, for an equivalent amount of work. As long as this situation exists, unscrupulous employers will have an incentive in employing children. Multi-million dollar industries benefit from this practice. Several industries in the third world countries have been identified and censured for employing children in their work force.

The child worker and his family must have a dire need for supplementing the existing family income. This need must be compelling enough to drive the child and his family to accept poor wages and working conditions.

Thus child labour occurs when this economic equation is satisfied – the *greed* of the child employers matches the *need* of the child worker (and his family). Unfortunately, this equation is satisfied in 125 million cases around the globe. The fight against child labour involves a variety of measures that

would break this exploitative economic relationship between the employer and the child by curbing the greed of the employer and diminishing the economic need of the child worker.

The greed of the employer has to be curbed in a variety of measures such as

- Labour legislation and its enforcement. This aspect was discussed in chapter 2.
- Socially ostracizing the employer by focussing the gaze of the society on this evil practice.
- Penalizing the companies and industries that employ children by a host of punitive measures such as boycotting their produce. This aspect has several dimensions related to international trade and the WTO and is considered in this chapter.

While the focus is on punitive measures for employers of children, the measures designed for child workers are essentially remedial and palliative in nature. In the next section we perform an economic analysis of the problem considering the family as the basic economic unit. This analysis will help appreciate the role of remedial and palliative economic measures in curbing child labour.

### **Role of Market Forces:**

Van contends that "*labour and employment are subject to the same market forces as goods like a shirt or a can of soda.*"<sup>1</sup> These market forces are those of supply of labour and its demand. The wages of the work force are

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<sup>1</sup> Boyden J, Birgitta L, Myers W, " What works for working children?", *Save the Children*, A UNICEF Publication, July, 1998.

adjusted according to supply and demand. Figure 3-1 shows how wages would vary with supply and demand. The demand for labour by firms will decrease as wages rise, because the firms will attempt to find other means (such as more automation) to keep the cost of labour within economic limits. The other line in figure 3-1 establishes a relationship between availability of labour (i.e supply) and the wages that would be paid. If the availability is high, the wages are lower and vice versa. The actual wages that would be paid, assuming that there are no other external factors, will be the intersection of these two lines.

Using this basic concept, various scenarios are examined in figures 3-2 to 3-4. As the labour force becomes more skilled, its productivity increases and they can command higher wages. This is shown as upward movement of the labour demand line in figure 3-2. This figure shows two supply lines, indicating that higher supply of labour results in leftward movement of supply line.

The supply lines of figure 3-2 can be applied to study the child labour scenario. Thus, they are redrawn in figure 3-3. The supply line on the left shows the case when there are only adults in the labour market. The line on the right represents the case where child labour is prevalent. Figure 3-3 provides some interesting insights. If in a particular economy, the adult wages are low, the families will not be in a position to survive and will be forced to seek out alternative means of income such as sending children to the labour market to earn and supplement the adult income. Thus, the trigger point for child labour is the low adult wage in an economy. If this wage is above the subsistence level, as is the case in developed economies, child labour does not occur. If this wage is low, child labour is the outcome. In such a case, there are two labour supply curves. To summarize the concepts of figure 3-3:

- Supply line - AB part only: Economies where adult wages are above subsistence level and child labour does not exist.
- Supply lines BC (for adults) and EF (for children): Economies where child labour exists. Both adults and children get subsistence wages. But, the wages of children are lower when compared to adult wages. Despite the fact that both adult and children get lower wages, these combined wages in a family unit are above the subsistence level. This fact is central motivation for child labour as it results in satisfying the (basic) needs of the family. Thus, assuming that in a particular economy, the adult wage is PQ ( $PQ < \text{Subsistence wage}$ ) and child wage is RS ( $PQ > RS$ ), then in a family with both a child and an adult as wage earners,

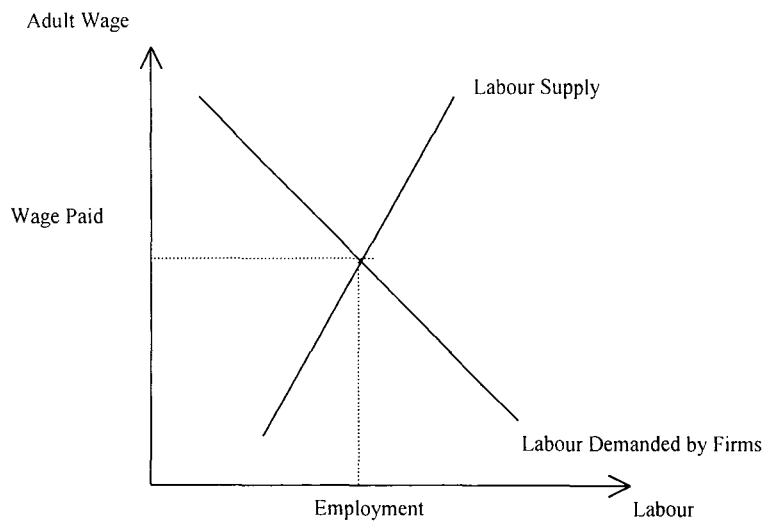
$$\text{Family income} = (PQ + RS) > \text{Subsistence wage}$$

Thus from an economic standpoint, to eradicate child labour, the following possibilities exist:

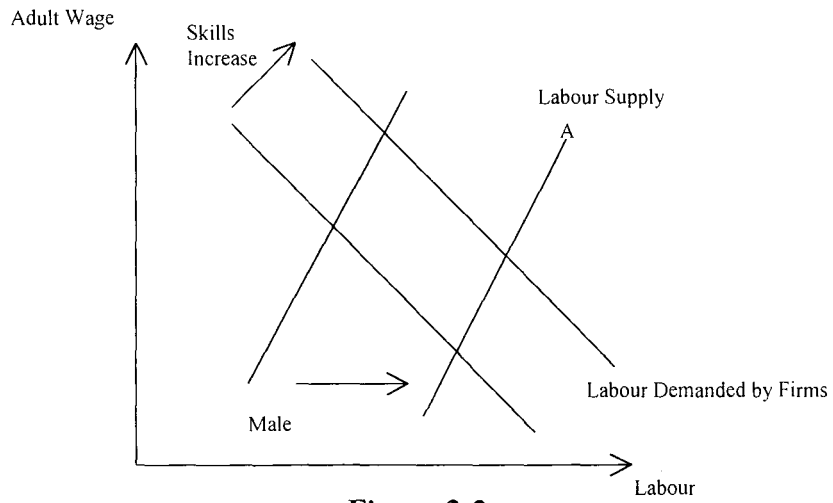
- (a) Increase PQ above Subsistence wage. This depends on the state of the economy and cannot be considered within the scope of child labour eradication measures.
- (b) Instead of child wage RS, provide alternative income or monetary support, such that the family income goes above subsistence level. These measures are discussed subsequently in this chapter.
- (c) Ban child labour by legislation, so that RS becomes zero. But if the family income remains consistently below subsistence level the

measure is unlikely to work. It would leave to unlawful child labour and hardship to the families. The measure is useful only in counteracting the greed of the employers and the insensitivity of families where it is possible for families to survive without child labour. The greed of the employers or the exploitative aspect of child labour can be judged by how far to the right is line DF from AC – a wider gap indicates that children are paid much less than the adults.

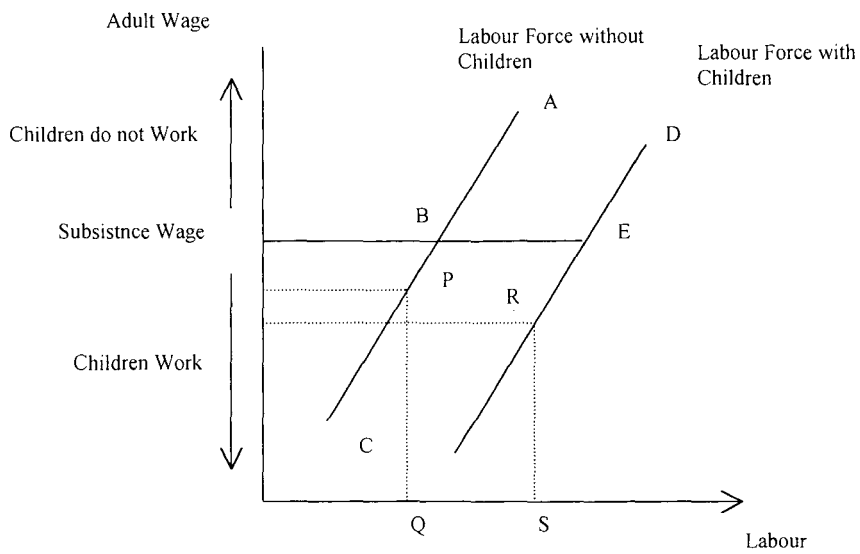
- Supply lines AB and DF will not arise from the purely economic standpoint. Where adult wages are higher than subsistence levels, if child labour exists, then the causes could be other societal aberrations such as criminal coercion and child prostitution.



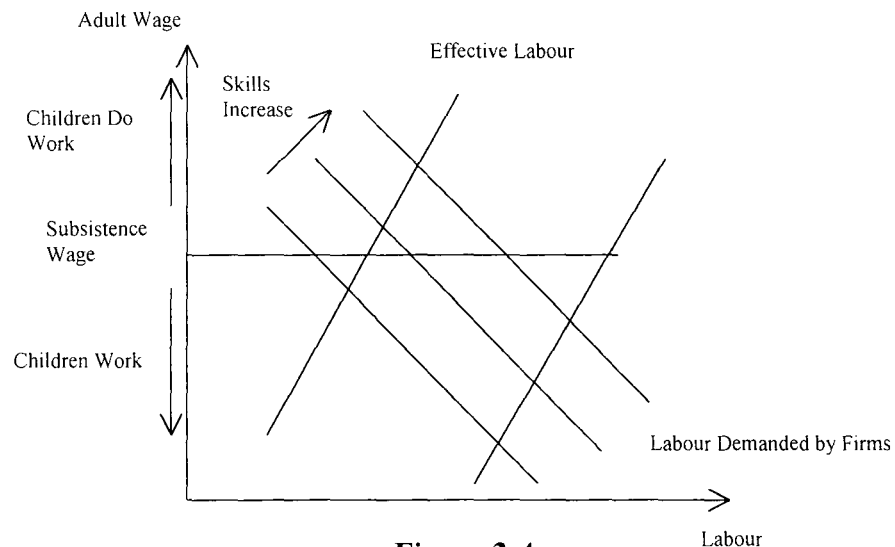
**Figure 3-1**



**Figure 3-2**



**Figure 3-3**



**Figure 3-4**

Source: Figures 3-1 to 3-4: Ref 5.

Basu and Van<sup>2</sup> describe an economic model for child labour as follows:

- Imagine a stable economy in which wages are very low.
- To escape hunger and deprivation, parents find work for their children.
- But if the government decrees that children cannot work the demand for adult labor should rise, assuming that adults can do the work the children were doing.
- With this increased demand for labor comes an increase in wages, which may raise family incomes to a level at which there is no need to send children to work.

<sup>2</sup> Anchor R and Melkas H, Economic Incentives for Children and Families to Eliminate or Reduce Child Labour, ILO Publication, Geneva, 1996, p 25-29.

Using this model, Basu and Van draw several interesting conclusions and prescriptions on dealing with child labour. These include:

- If we agree that sending children out to work is an act of desperation on the part of the parents, it seems reasonable to expect that parents would not send their children to work if their own wages were higher or employment prospects better.
- Governments should occupy themselves with improving the adult labor market, since its condition can dictate the size of the child labor market
- Trying to solve the child labor problem first, by banning it outright, could do more harm than good in the poorest countries, because there is little reason to believe that the adult labor market can be speedily improved in these countries. Barring children from work in such countries would plunge many families into starvation
- But in some countries, such as India and China, where the standard of living is higher -- though still low overall -- a government ban on child labor could act as a corrective factor, keeping the country's economy stable while actually raising the standard of living
- Economists must study a particular country's economy thoroughly before advising legislative action to ban child labour.

### **Economic incentives for Primary Education:**

Keeping children in school means keeping them away from the work place. In this sense school education strikes at the root of child labour. As seen in Chapter 2, all the five countries under study have laws for compulsory basic education. Despite this, universal education remains a major challenge. There are three useful indicators related to universal education. The first is the percentage of children enrolling in Primary Schools. According to the UNESCO Statistical Year Book 1997, for Philippines during the 1994-'96,



100% children enrolled in Primary schools. Not all the children who enroll may actually attend school. The second indicator is attendance ratios, which indicates the percentage actually attending school. This figure was 89% for the Philippines. The third indicator is the percentage of children reaching the fifth grade (70% for Philippines). Thus, the challenge is not only to enroll, but also to ensure punctuality and retention of children in school. This depends not only on economic incentives but also on the quality of education provided.

Thus, expenditure on education must include improved quality of education that would sustain children's interest in school, in addition to outlay for economic incentives. The figures for expenditure on education are shown in Table 3-1.

**Table 3-1**  
**Expenditure on Education in Philippines**

Public Expenditure on Education as a percentage of GNP (1993-97)	3.1
Spending on Education as a percentage of total government expenditure	15
Primary School spending as a percentage of Total Public Education Expenditures (1993-97)	48

(Source: Fact and Figures on Philippine Education. Department of Education, Culture and Sports, February, 1997.)

While the first two rows indicate the emphasis the country pays to education, vis-à-vis other national priorities, the third row which indicates the stress paid to universal primary education is related directly to the fight against child labour.

For poor families of child laborers, it may not be sufficient to provide free and satisfactory educational facilities. They may need further economic incentives to compensate at least partially, the loss of potential earnings from child labour. According to an ILO report<sup>3</sup>:

*“But simply making schools available will not be sufficient to eliminate child labour for poor families. Policies and programmes that provide income replacement and economic incentives have therefore come to the fore in recent times in order to address the poverty issues and the need for poor children to earn income. This strategy of using economic incentives is in keeping with the spirit of the times to consider incentives rather than sanctions as the means of eliminating bad practices.”*

Economic incentives are being used in a number of countries for improving school enrollment and attendance. But the effectiveness of these programs is not widely documented.<sup>4</sup> To address this deficiency, the ILO carried out a survey of NGOs. Results of this inquiry into 51 organizations from 18 countries indicate that the use of economic incentives combat child labour is a comparatively recent approach.<sup>5</sup> According to this report NGOs are generally positive about the economic incentives and consider them necessary in situations of poverty. They also conclude that economic incentives are likely to be most effective when implemented as a comprehensive approach that

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<sup>3</sup> *Child Labour: Targeting the Intolerable*, Reports of the 86<sup>th</sup> Session of the ILO Conference, Geneva, 1998.

<sup>4</sup> *Child Labour in Bangladesh*, ILO/IPEC Document, May 1998, p 121-127.

<sup>5</sup> Van P.H, *Child Labour in South East Asia*, Cornell University Publication, June, 1997.

includes other activities, such as awareness raising, improving educational quality, and increasing community involvement.

The various incentives reported from projects implemented in different countries are listed below. Though programs involving economic incentives are implemented in the select ASEAN countries also, very little data is available on this aspect. However, the following discussion would apply to select countries as well.

### **Meals for Children:**

Meals for children are one of the most widely used incentives. Children are provided one or two meals during their stay at school. Usually it is lunch for one-meal programs. Breakfast is included for two meal programs.

School lunches can be thought of as a form of income substitution, which may encourage children to go to school. School lunches can act as an incentive to make school more appealing to children, and at the same time improve their educational performance by facilitating their concentration and giving them energy. School lunches are one of the most common forms of income substitution; they have long been used by NGOs and governments in various countries, but not always as a means to increase school attendance; they are frequently used as a means to reduce poverty and reach the poor.

Costs of school lunches depend on the country, as well as on their nutritional value and taste. Costs also depend substantially on the mechanisms for food preparation and delivery. Other research has indicated that cost analyses have rarely been included in evaluations of school lunch programmes. In general, it has been suggested that those programmes with the greatest impact on nutritional status are the most effective in improving

school attendance. In school lunch programmes, special attention has to be paid to measures keep children in school. Otherwise children may go to school for the meal but not stay for the lessons; or they may only go to school when they do not get enough money from work, or when they are hungry. Timing of the meals is therefore important. Special attention must also be paid to keep down the cost per child. The precise goal of the lunch programme must be kept in view. Is the goal to specifically reduce child labour; to give food to those school children who are in need of nutrition; to retain children in school; or to persuade children to go into school?

If children are already in school, school lunch programmes are not alone likely to retain them there. Parents' support and motivation depend on many interrelated factors, such as school fees and relevance of curriculum. Parents' support may be augmented, though, by efforts to convince them about the physical benefits to children of nutritious lunches. School lunches may also have a positive impact on the employment opportunities of mothers. Mothers may take up full-time work when they do not need to come home to prepare lunch for their children.

It appears that for the very poor, a school lunch program may be an important incentive keeping them in school, and there is no doubt that a child who is not hungry and who has a well balanced diet and is not malnourished will have a better capacity for learning.

### **Food Distribution to Families:**

A variant of meals in the school program is the provision of food directly to the families of poor children attending school. A noteworthy example is the 'Food for Education Program' in Bangladesh that provides 15 to 20 kg of wheat every month to poor families whose children attend primary school regularly.

Such a program directly supplements the income of the family and has “significantly increased enrollment and attendance and dropout rates at the primary level.”<sup>6</sup> Several instances of food poisoning from school meal programs have been reported from countries of the region. Distribution of uncooked food is easier to manage and avoids the hazard of bad hygiene or spoiling of cooked food.

### **School Vouchers/Cash stipends:**

Direct aid in cash is meant to offset the indirect costs of schooling including the income lost to the family due to school attendance. Clearly, the expenditure on such schemes would be enormous if implemented widely and the financial outflow may well be beyond the capacity of national governments. Thus, cash stipends should be pegged to minimum levels and must require fulfillment of stringent eligibility conditions. The eligibility conditions would include the financial status of the recipient family and long-term regular school attendance by all children of school going age in the family.

While there is a general feeling that though economic incentives are effective, there are a number of practical problems that may negate the expected benefits of incentives. These include:

- Problems of corruption and cheating
- Possibility of creating a dependency on the program
- Unattractiveness of the schools because of the irrelevance of the school curriculum for the poor families in terms of future prospects of income generation.

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<sup>6</sup> Basu K and Van P.H, "The Economics of Child Labour", *The American Economic Review*, June, 1999, p 1027-1031.

- Possibility that children may start going to work in order to qualify for an incentive program
- Possibility that adult house hold members may reduce their own work efforts
- Economic incentives represent short-term financial support to facilitate movement of children from work to school. There is a problem of sustainability, with the risk that children would go back to work once the incentives are discontinued.

Some of these problems, particularly those related to corruption and mismanagement, can be a major impediment in meeting the objectives and intentions underlying programs of economic incentives. For these reasons, if due care is not exercised, such projects may lead to huge leakage of public funds. A lasting solution lies in raising the income levels of poor vulnerable families. But the problem of child workers can not wait for income levels to rise and therein lies the significance of economic incentives.

### **Role of National Economic Policies:**

According to World Bank statistics, more than 1.3 billion people live on less than \$ 1 a day – the internationally defined poverty line. A further 2 billion are only marginally better off. UNICEF estimates that children account for at least 50% of the poor. An estimated 650 million children are living in extreme poverty. Although poverty does not automatically lead to child labour, it is true that large amount of child workers are from poor families. Thus eradication of poverty must be at the centre of the national economic agenda. Sound macro-economic policies, such as fiscal and monetary policies, exchange rates and trade regimes are of paramount importance to sustain economic growth and enhance the well being of children. On the other hand,

poor macro-economic decisions can nullify the impact of the best possible measures for eliminating child labour.

The impact of rising per capita incomes on child labour is more pronounced when the incomes of the poor, and in particular women, increases. Access of micro credit to women can be a particularly powerful instrument in reducing poverty and child labour. National economic policies must aim at growth that is labour intensive. This will stimulate demand for labour, thereby reducing adult unemployment and increasing adult wages. As seen earlier in this Chapter rising adult wages is a key to reducing child labour. Growth that fails to increase the incomes of the poor is unlikely to prevent children from joining the labour force.

Agricultural growth was a key element of the development strategy of the select countries of the ASEAN. They carried out land reforms early in their development process, which set in motion a virtuous cycle of equitable, and poverty reducing growth.<sup>7</sup>

In pursuing equity with growth, the role of fiscal policy is crucial. The state needs to sustain the provision of essential economic and social services in good as well as in bad times.

### **Child Labour and International Trade:**

The main argument of linking international trade to child labour in some countries is that by employing children at an age and in conditions that do not conform to universally accepted standards, some countries might gain a comparative advantage in international trade over those that are very strict about such standards. This argument has emanated mainly from the United

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<sup>7</sup> Governing Body Document on Child Labour, (GB.264/ESP/1), ILO/IPEC Publication, Nov, 1995.

States and Europe where wages are far higher than those in developing countries, including the ASEAN region. The developing nations reject this argument and assert that labour issues, including child labour fall squarely within the ambit of the ILO, and it is in that forum that the labour issue must be addressed.

After a long controversy, the debate hinged over a Social Clause proposed to be attached to multilateral trade agreements. This clause essentially links trade with labour issues. During the first WTO ministerial meeting held in Singapore in December 1996, developing countries supported core labour standards such as freedom of association for workers, minimum age of employment, collective bargaining etc, but strongly opposed the Social Clause that linked labour with trade. Thus, a distinction was made by the developing countries between observance of core labour standards and the Social Clause. After a heated debate, the ministerial meeting rejected the Social Clause. Haworth and Hughes <sup>8</sup> sum up the outcome of this debate as follows:

*" The outcome represented a compromise squeezed from a conference, marked by high emotion and political intrigue, which brought in to sharp relief international tensions underpinning the debate around trade and labour standards. .. The declaration committed WTO members to the observance of core labour standards without specifying how the commitment should be achieved. It placed the issue firmly at the door of the ILO, while indicating an end to any future work on the issue within the WTO itself. .. It rejected the use of labour standards for protectionist purposes and gave formal recognition to low wage labour as a comparative advantage to developing countries.. "*

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<sup>8</sup> Nigel Haworth and Hughes Stephen, "Death of Social Clause?" , Paper presented at the International Conference on Labour Standards and Human Rights, University of California, Berkeley, Jan, 1998.



However, the issue of linking trade with labour was resurrected at the global trade conference at Seattle in December 1999. The developing countries stoutly opposed the creation of a working group on labour in the WTO. They were galvanised into action by the remark of President Clinton about eventual trade sanctions against nations that failed to comply with international labour standards. The Indian Chief representative Murasoli Maran summed up the position of the developing countries as follows:

*" The Western world, the industrialized world, wants to take away our comparative advantage. It is a pernicious way of robbing our comparative advantage. The developing countries consider it as a maneuver by wealthy nations to force our wages up, to undermine our competitiveness. This is the secret."*

The developing countries were backed by a group of academics that included Columbia University economist Jagdish Bhagwati. Their contention was that labour issues, in particular, are selectively used against developing countries for the economic gain of the richer nations. For example, President Clinton had cited child labour, a problem of developing countries, but had made no mention of the lax enforcement of laws to protect workers in garment sweatshops or migrant farm workers in the United States.

Thus the Seattle trade conference not only ended in a stalemate, but also brought to sharp focus the rich-poor divide. The moralistic stance taken by the developed world appears to be a camouflage to hide their underlying commercial interests. The chief motivation in linking trade with labour is economic advantage and not humanitarian concern for the child worker. At the same time, developing countries can not wish away this very serious problem of child labour by merely stressing the role of ILO on this issue. They may have succeeded at Seattle to the extent of postponing the issue. The

eradication of the problem is ultimately going to help their own people. But while more needs to be done by the national governments, as mentioned earlier in this Chapter, Basu and Van have rightly emphasized that sanctions can at times prove to be counter-productive, as illustrated in the case of Bangladesh. Whether sanctions could be counter-productive for select ASEAN countries with their more robust economies, is a matter of conjecture. Even assuming that sanctions could help curb child labour in these countries without deleterious side effects, different yard sticks for different countries can not be applied in the global trade agreement. Thus, it can not be argued that the Social Clause will be applicable to Thailand and not to Bangladesh. As long as there are very poor countries where sanctions can exacerbate the problem, linkage between trade and labour laws would not be logical.

**Remarks:**

An important aspect that has been largely ignored in the debate on child labour is the issue of adult education. Though the linkage between child education and child labour is widely recognised, education of the parents of the existing and potential child workers has neither been stressed nor implemented within the scope of child labour eradication programs. The analysis presented earlier has brought out that child labour can be curbed if wages in the adult labour market are above the subsistence level. Adult wages can rise only when the adult worker is skilled and this can only be achieved if he is educated. Thus, adult education can directly help in reducing child labour. Though, adult education programs are being implemented in some countries, the programs are outside the ambit of child labour eradication measures. Adult education must be used as an important tool against child labour. Illiterate parents of the child worker should be specifically targeted under these programs. The programs should also include occupational training for skill enhancement. In addition to the economic aspect, such

programs will broaden the mental horizons of these parents, driving home the significance of education. It would then be easier to persuade them to send their children to school instead of the workplace.

## **CHAPTER 4**

### **CHILD LABOUR: THE PSYCHOLOGICAL DIMENSION**

Child labour is associated not only with extreme physical exploitation, but also involves intense mental and emotional trauma inflicted upon an impressionable child psyche. Caught within the vicious cycle of poverty, illiteracy and exploitation, the suffering child carries the psychological scars of abuse for a lifetime and may metamorphosize into a socially maladjusted adult, displaying distinct criminal tendencies.

In general terms, psychological reactions to stressful and traumatic life events like child labour and associated abuse can range from "mild" to "severe". Mild reactions are characterized by a wide range of symptoms including sleep disturbances, irritability, worry, interpersonal strain, attention lapses, and the exacerbation of prior health problems.

Severe psychological harm, on the other hand, can be defined as the demonstration of symptoms that include

- 1) difficulties with concentration and memory, an inability to relax, impulsiveness, a tendency to be easily startled, difficulty falling or staying asleep, anxiety);
- 2) psychic numbing (e.g., depression, and a lack general responsiveness, disinterest in activities, estrangement from others, loss of interest in the future);
- 3) recurring thoughts about unpleasant past experiences (e.g., flashbacks or vivid and intrusive recollections, repeated nightmares, intense distress when exposed to similar situations).

The psychological trauma may be acute, chronic, or delayed. A significant aspect is that the trauma is more severe and longer lasting when caused by human design. This indeed is the case with child labour. The usual course is for symptoms to be strongest soon after the event and then diminish over time. Symptoms may worsen, however, when the individual is exposed to stimuli that resemble the original traumatic event. Psychological harm is not qualitatively dissimilar for victims, but rather is a matter of degree. In other words, although the psychological stress experienced by victims of worst form of child labour such as child prostitution and child soldiering may be greater in intensity, the nature of their distress is similar to those exploited as agricultural or domestic labour.

The stress a child worker is subjected to are many, but for the purpose of this study, the following are included:

- Violence
- Sexual assault
- Separation from family and near and dear ones
- Missing out on school

#### **Trauma of Violence and Physical Abuse:**

Violence is a recurring experience for child workers. The most grisly and vivid of course, are the experiences of child soldiers.

*"They beat all the people there, old and young, they killed them all, nearly 10 people... like dogs they killed them... I didn't kill anyone, but I saw them killing... the children who were with them killed too... with weapons... they made us drink the blood of people, we took blood from the dead into a bowl and they*

*made us drink... then when they killed the people they made us eat their liver, their heart, which they took out and sliced and fried... And they made us little ones eat."*<sup>1</sup>

And child soldiering is more rampant than many would like to believe. Children under 18 are serving in government armies, local militaries, armed opposition groups, and a variety of other situations. Many of these children are forced to serve against their will after being rounded up at gunpoint and physically abducted. Attempts at desertion may be punished with brutal beatings or even death.

A 1996 United Nations Study on the Impact of Armed Conflict on Children found that those children who are most likely to be child labourers in peace-time are also most likely to become child soldiers in times of armed conflict. This vulnerable group includes children who have been separated from their families; orphans; children from economically and socially deprived backgrounds; and minorities, refugees, and the internally displaced. Both boys and girls serve as child soldiers.

Perhaps the most tragic aspect of this phenomenon is the psychological toll it takes on the children. With no other adult role models, the children quickly become psychologically dependent on the military as a surrogate family. Children who actually do serve in combat bear mental scars from witnessing and committing acts of violence. They miss out on childhood and family ties, they emerge from military service profoundly dependent on it for material and psychological support, and are often left with a low sense of self worth and dignity. Most experience the kind of violence that leaves them physically and psychologically scarred. In adolescence many turn to drugs,

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<sup>1</sup> "The Invisible Soldiers: Child Combatants," *The Defense Monitor*, Center for Defense Information, July 1997, p 24.

alcohol and anti-social behaviour. Even those who escape these problems face others when they reintegrate into civilian life. They find it hard to socialise and regain their sense of self-worth, often they are verbally abused by their peers.

In the recent civil war in Rwanda, 4,500 children served as soldiers, according to UNICEF. UNICEF is running several programs to rehabilitate and reintegrate child soldiers by providing schooling, job skills and self-esteem-building activities. In the absence of such programs, former child soldiers face a bleak future. A life of violent crime may be the most attractive path for these youth, which are trained in the use of weapons but lack other education or job skills.

Physical abuse and violence is not confined to child soldiers. Child workers of almost all descriptions are vulnerable to physical abuse and violence. It occurs to domestic workers, child beggars, industrial and agricultural workers and most notably to child prostitutes. There is a large body of reports, too numerous to cite, that documents the presence of child abuse in almost all occupations related to child labour. Though there are very few studies on the psychological impact of child labour, there is a body of literature that documents and examines the psychological impact of child abuse. It appears reasonable to conclude that trauma of child abuse would have similar characteristics for the child whether it occurs in the context of child labour or outside it. Indeed, the trauma is likely to be more severe.

Lamphear<sup>2</sup> screened the studies that have been conducted on the impact of physical abuse of children. Based on her review, she concluded that, compared to children who have not been abused, physically battered youths

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<sup>2</sup> Lamphear, V. S "The impact of maltreatment on children's psychosocial adjustment: A review of the research" , *Child Abuse and Neglect*, Vol 9, Pergamon Press, New York, 1985, p 251-263.

display the following psychosocial problems in no particular order of frequency of occurrence:

- noncompliance; tantrums and aggression directed towards both peers and adults;
- poor peer relationships;
- social skills deficits;
- social withdrawal;
- low empathy;
- poor school adjustment and academic performance;
- language delays and;
- other behavioural disturbances resulting from childhood physical abuse.

As Steele<sup>3</sup> points out, physical abuse itself does not necessarily cause related psychological and behavioural problems. Most people, as children have injured themselves by perhaps breaking an arm or receiving a burn due to accidental causes and they have not been harmed because of the care and attention they receive from their caregivers. The psychological sequel of battered child syndrome comes when the injuries are inflicted intentionally as punishment and there is no escape. This is precisely the case with the child worker who is victim of physical abuse. The hurt that he has been unjustly punished goes deeper than the physical injury itself.

Research into the relationship between the psychological distress and the severity of injuries and duration of violence is limited. Typically, child

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<sup>3</sup> Steele, B, "Notes on the lasting effects of early child abuse throughout the life cycle." *Child Abuse and Neglect*, Vol 10, Pergamon Press, New York, 1986, p 283-291.



workers work for several years. Thus, long-term violence and physical abuse is common. The available evidence seems to indicate that receiving more severe injuries, starting at a younger age, and lasting over a longer period of time are associated with the worst outcomes.<sup>4,5,6</sup> However, time being a great healer, the levels of distress taper off with time. Table 4-1 shows this tapering effect with different categories of distress.

**Table 4-1**

Mean levels of psychological trauma stemming from child abuse at one month and six-month time periods after the event, classified by types of victimization on a scale of 5.

	Non-domestic Assault	Non-domestic Assault	Domestic Assault	Domestic Assault	Sexual Assault	Sexual Assault
Measure of Distress	1 month	6 Months	1 Month	6 Months	1 Month	6 Months
Anxiety	2.9	1.9	3.0	2.0	3.2	2.1
Stress	2.0	1.3	2.3	1.4	2.3	1.4
Dismay	2.3	1.8	2.5	1.8	2.7	1.9
Fear	2.3	2.2	2.2	2.2	2.6	2.7

Source: Wirtz P.W. & Harrell A.V. "Assaultive versus Nonassaultive Victimization", *Journal of Interpersonal Violence*, Vol. 2, 1987, p 264-277.

Psychologists believe that physical and sexual abuse exhibit cyclical patterns. Children, who suffered violence and physical abuse, are likely to

<sup>4</sup> Egeland B, Sroufe L & Erickson M, "The developmental consequence of different patterns of maltreatment", *Child Abuse and Neglect*, Vol 7, Pergamon Press, New York, 1983, p 459-469.

<sup>5</sup> Kinard E.M, "Experiencing child abuse: Effects on emotional adjustment", *American Journal of Orthopsychiatry*, Vol 52, 1982, p. 82-91.

<sup>6</sup> Mrazek P & Mrazek, D. " Resilience in child maltreatment victims: A conceptual exploration", *Child Abuse and Neglect*, Vol 11, Pergamon Press, New York, 1987, p 357-366.

indulge in violence as adults.<sup>7</sup> As victims of physical persecution, the aggressive tendencies probably derived from their early experiences with abuse. As children, they learned that aggression seemed to be an appropriate form of interpersonal behaviour when angry or upset. Even if a small minority of the 250 million child workers suffer from physical abuse, the violence levels in the future are likely to be considerably elevated from this single factor alone.

Summing up the long-term effects of physical abuse, psychologists Walker, Bonner and Kaufman wrote, "child abuse may have a profound effect on the entire life of the individual who has been abused and may also affect future generations of that family as well as society at large."<sup>8</sup>

### **Children in the Flesh trade:**

Child prostitution and the use of children for the production of pornographic material are one of the most odious forms of violence worldwide. Children, especially girls, are being bought and sold by organized networks for both the domestic and international markets. According to the 1996 report of the United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, one million children in Asia are victims of the flesh trade and the number is on the increase in Africa and Latin America as well. The increased commercial sexual exploitation of children has, among one of its various causes, the laxness of governments themselves and the law

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<sup>7</sup> Gelardo M.S & Sanford E.E, "Child abuse and neglect: A Review of the Literature." *School Psychology Review*, Vol 16, Pergamon Press, New York, 1987, p 137-155.

<sup>8</sup> Walker C.E, Bonner B.L & Kaufman K.L, "The physically and sexually abused child: Evaluation and Treatment" *Child Abuse and Neglect*, Vol 10, Pergamon Press, New York, p 271-278..

enforcing agencies, which are careful not to take any step that might dry up the rich source of revenue derived from these activities.

Prostitution has always been associated with a social stigma in all cultures worldwide. Lack of self-esteem, deep-rooted anger and frustration, and feeling injustice have consequently been the haunting characteristics of child prostitutes and former sex workers. Victims of the sex trade are often not aware of their own psychological disturbance and unconsciously tend to suppress their feelings, which leads to bottling up of their emotions. Many of them prefer to conceal their past, avoid talking about it, and possibly withdraw or isolate themselves from society. Some trafficked victims continue to be emotionally disturbed by trafficking agents who repeatedly persuade them into the same abusive conditions. The agents are mostly successful, especially under circumstances where girls and women have to support their families. Some girls reported the desire to get married, flee the cycle, and/or stop assuming the responsibility to generate income for their families. After marriage, the young women frequently faced social stigma from their in-laws. The rushed marriages often end as short time arrangements.

Children in prostitution usually present emotional scars all their lives. Trafficked victims in the sex trade realize how they are viewed in the society. In an attempt to cope with such low self-esteem they exhibit varying symptoms. Aggression, pessimism, drug addiction and gambling are some of the consequences. Child victims develop deep distrust in people, especially in men. And these child victims grow up to be insecure adults, who in most cases are not accepted back into the fold of respectable society and therefore, are forced to remain life long in their detestable profession. Thus, there are significant social costs due to the moral stigma associated with prostitution. The rehabilitation of these hapless victims remains a distant possibility.

### **Separation from the Family:**

Child labour often involves children moving out to work away from home. Most categories of domestic workers, street children, migrant child workers, child prostitutes are all examples where children have to leave their home for work. Many times children move to city because of abject poverty and specter of hunger in their rural homes. There can be no two opinions about the value of parental care and the presence of siblings in the emotional development of the child. Various theories of child development point to the significance of the traditional family. "*The decline of the traditional family*", wrote William Bennett, "*constitutes perhaps the greatest long-term threat to our children's well-being.*"

Separation from the family results in emotional abuse. Emotional abuse is hard to define and even more difficult to diagnose because the bruises and scarring occur to the child's mind and psyche, and not to the body. It is a systematic tearing down of a human being, which in turn can seriously interfere with the child's development processes. The effects linger long into adulthood as these victims see themselves as unworthy of love and affection and often exhibit insecurity, poor self esteem, destructive behaviour, angry acts, withdrawal, poor development of basic skills, alcohol or drug abuse, suicide and difficulty in developing social relationships. Children away from home have a constant feeling of rejection, and they suffer as much as if they have been physically abused. Even children who receive no physical abuse but are emotionally deprived, fail to thrive. In the case of child workers, the emotional abuse is often accompanied by physical abuse, thus further compounding the situation. There can be five kinds of emotional abuse, all of which can be present in the case of the child worker. These are:

- *Rejection* occurs when children are treated as unwanted. Children sent out to earn may not understand the economic compulsion and may interpret it as a personal rejection.
- *Ignoring* occurs when the parent is physically present but emotionally unavailable. Parents show no interest in the child and do not express affection. This is in fact often the case with child workers and almost amounts to separation from home. The child comes back exhausted after long hours of toil. He is in no position to receive any affection or attention from parents, which in any event is seldom forthcoming.
- *Terrorizing* occurs when employers single out a child worker to criticize, punish or ridicule. In extreme cases children may be threatened with mutilation or severe physical violence.
- *Isolation* occurs when the child is not allowed to engage in activities with his peers appropriate to his age. This happens with domestic child workers, where they neither go to school nor has company of children of his own age. Children of the employer of the same age group as the child servant do not provide peer company because there is a master servant relationship between them. Thus the child worker may feel totally isolated. However, this is not the case with street children or child workers engaged in industries where they enjoy company of each other. They develop a common bond of misery and learn the art of living under difficult circumstances.
- *Corruption* of young minds of impressionable age is one of the major drawbacks of child labour. The situations in which children work present all kinds of possibilities for bad influences. Drug and sexual abuse, participation in street fights, petty thefts, pick-pocketing, begging, aggressive behaviour and the use of foul language are examples.

**Missing out on School:**

The lack of educational opportunities is held out as the central issue in the child labour debate. Education is recognized as a fundamental right of every child. According to Article 28 (1) of the United Nations Convention on the Rights of the Child, "state parties recognize the right of the child to education and with a view to achieving this right progressively, and on the basis of equal opportunity, they shall in particular, make primary education compulsorily available and free to all."

In many cases the child workers are not aware of the significance of education and they do not take it as a deprivation, though we as adults realize that lack of educational opportunity is a deprivation of the severest kind with life long ramifications. But among older child workers a realization of deprivation begins to dawn. In urban centers in particular, they notice children of their own age or even younger, leaving in the morning for school in freshly starched and ironed uniforms. They view them with curiosity and envy. This does not mean that driven by this envy all child workers will be motivated to go to school. But in the eyes of the child worker, lack of schooling opportunities represent yet another instance of injustice and deprivation. This makes them feel inadequate and inferior to school going children. From these curious and envious beginnings, the child worker may during his adulthood realize the significance of education in life. Bitterness, rage and a sense of hopelessness follow as a consequence. If they are able to conquer these feelings, a few former child workers may turn to education later in life. But such individuals who rise above their adverse circumstances are quite rare.

**Remarks:**

The psychological underpinnings of the problem of child labour need consideration in designing programs for rehabilitation of child workers. Due to

its close linkage with poverty, the issue of rehabilitation is sought to be addressed largely in the material and physical plane and the psychological dimension is rarely looked at. Even when psychological aspects are considered during rehabilitation, they are in the context of severely traumatized categories such as child prostitutes. As seen from the above discussion, psychological trauma is common to all child workers even though its degree may vary. Thus there is a need for greater sensitivity, understanding and psychiatric help during rehabilitation of child workers. Currently, psychiatric help is rarely provided during rehabilitation programs.

## **CHAPTER 5**

### **ASEAN'S ROLE ON CHILD LABOUR**

This Chapter the role of ASEAN on child labour issues is examined. The Bangkok Declaration created the Association of South-East Asian Nations (ASEAN) in 1967. The founding member countries were Indonesia, Malaysia, Singapore, Philippines and Thailand. Brunei joined in 1984, Vietnam in 1995, Laos and Burma in 1997 and finally Cambodia in 1999. The aims and purposes of the Association as enumerated in the Bangkok Declaration were

- 1. To accelerate the economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian nations.*
- 2. To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter.*
- 3. To promote active collaboration and mutual assistance on matters of common interest in the economic social, cultural, technical, scientific and administrative fields.*
- 4. To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres.*
- 5. To collaborate more effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems*



*of international commodity trade, the improvement of their transportation and communications facilities and the raising of the living standards of their peoples.*

*6. To promote South-East Asian studies.*

*7. To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves."*

To meet these objectives, ASEAN established a mechanism that included annual meetings of the foreign ministers of member states. However, to examine the role of ASEAN on the issue of child labour and associated labour standards, it is useful to survey the deliberations of the ASEAN labour ministers which is the appropriate forum to reflect the ASEAN position on this issue.

**ASEAN Labour Ministerial Conferences (1975-2000):**

The labour ministers meet periodically since 1975. In all, fourteen meetings of the ASEAN labour ministers have been convened as described in Table 5-1.

**Table 5-1: ASEAN Labour Ministers' Meetings**

Meeting	Date/Year	Location	Child Labour issues discussed?
First Meeting	1-3 April, 1975	Jakarta, Indonesia	No
Special Meeting	17-19 May, 1976	Baguio City, Philippines	No
Second Meeting	26-28 May, 1977	Pattaya, Thailand	No
Third Meeting	26-27 May, 1980	Kuala Lumpur, Malaysia	No
Fourth Meeting	6-7 Sep 1982	Singapore	No
Fifth Meeting	8-9 October, 1984	Manila, Philippines	Yes

Sixth Meeting	27-29 November, 1986	Bandar Seri Begawan, Brunei	Yes
Seventh Meeting	13-14 October, 1988	Bali, Indonesia	Yes
Eighth Meeting	17-18 Sep, 1990	Kuala Lumpur, Malaysia	Yes
Ninth Meeting	26-27 November, 1992	Manila, Philippines	Yes
Tenth Meeting	16-17 May, 1994	Singapore	Yes
Eleventh Meeting	25-26 April, 1996	Bangkok, Thailand	Yes
Twelfth Meeting	29-30 April, 1998	Hanoi, Vietnam	Yes
Thirteenth Meeting	14-15 May, 1999	Yangon, Myanmar	Yes
Fourteenth Meeting	11-12 May, 2000	Manila, Philippines	Yes

The goal, as stated in the first meeting, was to address areas of collaboration in the fields of labour and manpower in the ASEAN member countries. Apart from this broad goal and purpose, there was no reference implicit or explicit, to the problem of child labour, which was widespread in the countries in the region. The challenges of population growth and manpower problems were stressed. Labour ministers meetings were planned biennially and it was also decided that the labour ministers would also hold informal meetings during the ILO meetings. The special meeting held in 1976 also did not focus on child labour issues. It however indulged itself in platitudes by stating that justice is possible even in a society burdened by mass poverty and by social institutions that are in themselves unjust.

It was only in 1984 in the Manila meeting of labour ministers that a comment was made on the formulation of international labour standards by the ILO. It was observed that the international labour standards have been formulated in the context of the concepts and values of western countries. Thus, it was felt that ASEAN should adopt common positions in the setting of labour standards and must participate more effectively in the elaboration of

these standards, including the determination of agenda items for ILO conferences.

The ASEAN opposition to linking of trade with labour issues was expressed for the first time in the 1988 labour ministers meeting, where this aspect was considered as a protectionist barrier which would adversely affect industrial relations, employment and productivity. This position was again emphasized in 1992 where grave concern was expressed on the increasing attempts to impose pressures on developing countries to comply with rigid ILO standards and to link such compliance with international trade privileges. More significantly, it was stated that in view of the vast economic disparities between the developed and developing countries, like ASEAN countries, the ILO should review its labour standards to reflect the prevailing economic environment in developing countries.

In the ASEAN labour ministers meeting of 1994, the move by the developed countries and the International Trade Secretariat (ITS) to introduce Social Clauses into international trade agreements was strongly opposed. The ministers also expressed their concern that the ITS was using local trade unions as its proxy to force compliance with ILO labour standards. It was stressed that such attempts would undermine the competitiveness of developing countries and erode their comparative advantage, thereby hurting their economies. An important argument put forward was that poor economic conditions in the developing countries would be detrimental in the long for the developed countries as well, since the world economic order is getting increasingly inter-linked. The markets for the western world would shrink if the living standards and purchasing power were to decline in the ASEAN region. Thus, the move to introduce new conditionalities that link Social Clauses and ILO labour standards with market accessibility would have an adverse impact on the global economy. A distinction was made in the meeting between the Social Clause and the application of core labour standards that

are designed to improve the economic and social well being of workers. The opposition was mainly directed against the Social Clause.

In the 11th ASEAN Labour Ministers' Meeting in 1996, the following concrete conclusions were derived:

- To reaffirm the position that there should be no linkage between international labour standards and international trade.
- To oppose any such linkage at all international fora.
- To continue to express concern that any such linkage would seriously undermine the economic growth of developing countries which in turn would affect the economy of the developed nations.
- To reiterate the view that the issue of international standards should be discussed in the ILO, which is the most competent body to deal with the issue, and not in international trade or other non-labour fora.
- To reaffirm their commitment to improving the social and economic well being of workers.
- To underscore the view that many of the ILO Conventions, which were formulated decades ago, have become outdated and do not reflect the actual social and economic conditions of member states.
- To put forth the view that ILO implements should be used to help member states to improve their socio-economic conditions and not as a tool to penalize member states for non-compliance.

Thus, there can be seen a progressive hardening and more vocal exposition of the position of ASEAN on the issue of Social Clause. In fact the 1996 meeting went beyond the issue of de-linking labour with trade - it commented that the role of ILO should not be punitive or coercive in nature and that there is a need for review of existing ILO conventions including the

Minimum Age Convention of 1973. Pending such a review, the meeting urged the ILO to adopt a more flexible approach in applying ratified conventions with due consideration given to the development of each member state. In addition, the meeting called upon the ILO to provide additional resources and technical assistance in the eradication of poverty and elimination of child labour.

The 1996 meeting set forth the policy directions for ASEAN on the Social Clause and Child labour issue that were reiterated and amplified in subsequent pronouncements.

In the 1999 meeting at Myanmar, the ASEAN labour ministers went a step further by avoiding condemnation of child labour and warned the developing countries not to use such issues as leverage in the trade negotiations at the WTO. A statement issued at the end of the meeting stated:

*"The ministers reiterated their position that ASEAN does not condone child labor. Condemning child labour in any particular country or instituting sanctions-based measures would not solve the problem at its roots but would aggravate the situation instead. They (the ministers) expressed their opposition to child labour but also recognized that because child labour is ingrained in some of the traditional economic processes, it is a matter of education and poverty eradication"*

The ASEAN Secretary General Rodolfo Severino added:

*" ASEAN does not operate by methods of censure and preaching and standing on pulpits to take members to task."*

In the Manila meeting held in May, 2000, the labour ministers spoke in favour of eliminating the worst forms of child labour as soon as possible, but

were of the view that the solution to the fundamental problem should be through education, technical assistance and other promotional activities.

As seen from the preceding discussion, the ASEAN position on child labour, since the biennial meetings of labour ministers commenced in 1975, can be divided into three phases:

Phase 1 in which the problem of child labour was totally ignored. It simply did not figure in the agenda.

Phase 2, when ASEAN foreign ministers reacted, though mildly, to allegations of non-compliance of international labour standards including widespread use of child labour in ASEAN countries. This reaction appears to emanate from the growing concern of losing trade opportunities and was essentially defensive in nature.

Phase 3, when the ASEAN position hardened in view of the growing insistence of the rich countries to link trade with labour. The practice of child labour though not condoned, was not condemned. The ASEAN propounded the thesis that child labour is ingrained in some of the traditional economic practices.

Keeping aside the debate on the Social Clause, what does one make out of the ASEAN role on child labour? For more than a decade until the mid-eighties, the ASEAN was quiet on the issue, though child labour was rampant in the ASEAN countries. Some of the most depraved atrocities including child prostitution and child soldiering flourished in the region. There could be several programs of joint action that could have helped fight the menace. Yet, the labour ministers feigned that the problem did not exist. It appears that ASEAN labour ministers would not have spoken even a single word on child

labour to date had they not been forced to take a stand in the face of the Social Clause. And when they did take a stand on the issue, they failed to condemn the practice. It is true that they had compulsions arising out of the coercive trade threat of the affluent nations. But almost justifying the practice on the basis of "ingrained economic practices" can not be accepted. What, for example, are the ingrained economic practices related to child trafficking and prostitution in Thailand or the practice of child soldiering in the troubled states of Vietnam and Cambodia? The least the ASEAN could have done was to strongly condemn the worst forms of child labour. This would have in no way diluted their case on the Social Clause, while acknowledging that the problem does exist. Instead, all that the ministers managed was a guarded statement in the year 2000 meeting expressing a wish to eliminate the worst forms of child labour. They hastened to stress the role of education and technical cooperation. This linkage sought to dilute the gravity of the issue. Even at this late date, there has been a complete absence of drive and initiative on the part of ASEAN and even tentative dates by which the worst forms of child labour could be eliminated are not offered. However, it must be added in defence of the ASEAN labour ministers that they recognized the broader issues involving child labour, namely, poverty eradication, education and social development. Once it is recognized that these aspects are the corner stone of child labour issues, the child labour debate goes outside the purview of the ASEAN labour minister meetings. It is therefore necessary to look at activities in other appropriate forums of the ASEAN. One such forum was the meeting of ASEAN ministers responsible for Social Welfare. The activities under this forum are considered in the next section.

#### **ASEAN Ministerial Conferences on Social Welfare:**

In the context of discussions and resolutions on the issue of child labour, the most significant ASEAN Ministerial Conference on Social Welfare

was the Fourth Summit convened in Singapore in January 1992. It was here that the decision to extend ASEAN functional cooperation to the development of children was taken - in order to enable them to realize their full potential. Accordingly, an ASEAN Plan of Action for Children was drawn up in December 1993 at the third ASEAN Social Welfare Conference. The Plan of Action provides the framework for promoting regional cooperation for the survival, protection, and development of the ASEAN Child. For purposes of the plan of Action, the ASEAN child is defined as any person below the age of 18 years. The significance of this Plan of Action in the context of child labour is obvious. It can be considered as a regional counterpart to the U.N Convention on the Rights of the Child<sup>1</sup> (Discussed in Chapter 2).

The Plan of Action for Children focused on three priority areas:

- Child survival
- Child protection
- Child development

While clearly these three aspects go hand in hand and are essential to the integrated development of the child, measures related to child protection and development are meaningful in the context of child labour. Poverty is the common denominator and its alleviation is central to any strategy in all the three areas.

The Plan identifies the following situations where children need protection:

- Child abuse, neglect and exploitation including child prostitution and child labour

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<sup>1</sup> Convention on the Rights of the Child, Annex 44, Supplement No. 49, U.N Document, A/44/49, 1989.



- Street children and abandoned children
- Child trafficking
- Children in conflict with the law

The measures suggested include:

- Networking with and among law-enforcement agencies, for example, to monitor where labour laws are violated and children are being exploited by their employers.
- Training to improve the development, implementation, monitoring and evaluation of programs on child protection.
- Research on children in especially difficult circumstances.

Moreover, the Plan of Action for Children delineated the following priority projects that have to be translated into action on the ground level for the purpose of child protection:

- Collaborative research, documentation and programs on physical and sexual abuse of children, child labour, trafficking of children and child desertion.
- Interactive meetings of regional expert groups for strategy formulation on issues such as crimes committed by and against children.
- Conducting regional exchange programs for child welfare workers on a regular basis for creating an overall understanding on the issue of child persecution as it exists in the ASEAN member states.
- Information sharing on state-of-the-art programs formulated to provide for the basic needs of children such as food and nutrition, clothing, shelter, health services and education.

Child development has been identified as another crucial area to be addressed by the Plan of Action. Accordingly, the following needs relating to child development should be met:

- Moral and ethical value formation through education: Illiteracy has been underlined as the root cause of evils such as child labour and the growth of criminal tendencies among children. The provision of basic education to the child is therefore essential for developing healthy moral values and ethical attitudes.
- All round development of the child to be promoted by involving and educating the society so that common folk understand and appreciate the significance of child development for the benefit of not only of the child but also of the society and nation.
- Provision of efficient child-care services.

To work on these lofty ideals and prescription the social welfare ministerial meeting designated Desk officers in each member state with the following functions consistent with the laws of the country:

- Assist in the formulation and recommendation of policies and programs involving children that shall be pursued at the regional level within the context of the ASEAN Plan of Action for Children in consultation with relevant national authorities.
- Facilitate the exchange of information, technical advice and program experiences on children's issues and problem among ASEAN member states.
- Coordinate, monitor, review and evaluate the respective member country's implementation of ASEAN programs of cooperation on children.

- Prepare and submit proposals as well as the required reports on children to the ASEAN Committee on Social Development.

It was further stipulated that the designated ASEAN Children's Desk Officers shall ensure effective coordination of the regional programs on children with relevant bodies and committees of ASEAN involved in children's issues.

The Plan of Action for Children was targeted to achieve its stated objectives by the year 2000. However, if a reality check is taken, it cannot be denied that the effective implementation of a coherent and cohesive common ASEAN strategy on child labour will not take place short term, but will be a long drawn out process. This is reinforced by the fact that the ASEAN Vision 2020 <sup>2</sup> - a document that embodies the future priorities of ASEAN member states, makes no direct references to child labour in its outline of the problems to be collectively tackled by ASEAN by the year 2020. At best, child trafficking is the only issue within the ambit of child exploitation that has been discussed.

*"We envision the evolution in Southeast Asia of agreed rules of behaviour and cooperation measures to deal with problems that can be met only on the regional scale, including environmental pollution and degradation, drug trafficking, trafficking in women and children and other transnational crimes."*

The ASEAN Vision 2020 chiefly recommends the cobbling together of an ASEAN Action Plan for the protection of women and children against trafficking and commercial sexual exploitation as well as, putting into place a regional mechanism to facilitate the exchange of information on legislation concerning women and child protection. The ASEAN Ministerial Meetings on

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<sup>2</sup> ASEAN in the Next Millennium: ASEAN Vision 2020, ASEAN Academic Press, Malaysia, 2000

Transnational Crime (AMMTC) will pursue policies and measures to suppress crime against women and children through regional cooperation, while ASEANPOL will continue to strengthen police cooperation through information and intelligence exchanges in order to deal with crime effectively.

## **CHAPTER 6**

### **SUMMARY AND CONCLUSIONS**

The various facets of child labour have been examined in the earlier chapters. Summary and conclusions of the study are brought together in the following paragraphs:

Child labour is a problem of gigantic proportions; ILO estimates that 250 million children world over are victims of child labour. The actual numbers may be much larger because many countries do not gather or publish data on child labour. Even when they do the picture presented is incomplete because figures related to unorganised sectors are often ignored. It is impossible to fight a war without a visible target. Thus, gathering reliable data on child labour is an important first step, as highlighted in chapter 1.

Before examining the available data on child labour, the conceptual meaning of child labour is explained. This is important because just any work performed by children does not constitute child labour. Furthermore, to gain a historic perspective, the origins of child labour are considered. Though child labour may be an ancient practice centered on agricultural activities, the ugly face of the problem can be traced to the beginning of the rise of capitalism in Europe and Great Britain.

Looking at the genesis of child labour, some important conclusions have these drawn. These include-

- The industrial revolution was at least a catalyst if not the sole contributor to the problem.

- During the 19<sup>th</sup> and the early 20<sup>th</sup> centuries, the developed nations of today were the worst offenders. But during the later part of the 20<sup>th</sup> century, the practice of child labour generally diminished in these countries due to a variety of factors such as stringent legislation, informed public opinion, growing affluence and higher literacy rates. The 'epicentre' of the problem then shifted to the developing countries of Africa, Latin America and Asia.
- Clearly, the developing world did not learn from the mistakes of the developed countries. Most of these countries were under colonial rule and their colonial masters wilfully or negligently allowed the problem of child labour to take root in the colonies, even as they were taking remedial action back home. Thus, despite the current moral posturing, the developed world must own a part of the responsibility for wide spread child labour in Asia, Africa and Latin America.

The existing data on child labour has been examined in detail considering both the global and regional estimates. 61% of the total child labour force is in Asia. Both globally and region-wise, there are more boys than girls in the child labour force. Does it indicate that the girl child is more protected than the boy child? This may not be so. Girls are often deployed in 'invisible child labour', mainly in domestic services which remain unreported.

The link between full time child workers and children not attending school is established by analysing the figures on full time workers supplied by the ILO and the estimates on children attending school provided by UNESCO. This is important because one of the principal objections to child labour is the fact that it prevents children from receiving education.

Extent of child labour in the five select ASEAN countries, namely, Thailand, Cambodia, Vietnam, Malaysia and the Philippines has been examined in detail.

For Thailand, figures provide an interesting insight on how the number of child workers as a percentage of total children in the concerned age group is changing over the years. It is seen that from a peak of 40% child workers in 1988, there has been a consistent and considerable reduction up to 1996, with the percent of child workers falling to about 8%. There was a slight increase in 1997, triggered perhaps, by the economic crisis in South-east Asia.

A World Bank report on Thailand attributes the considerable reduction in child workers in Thailand to the following factors:

- Reduction in Poverty
- Expansion of public education
- Maturity of successful family planning policies that reduced from 6 children to just over 2 children per woman in the last 30 years.

However, the number of child workers is still significant and 1.6 million children below the age of 15 are out of school.

There are 3 million children in the 5-14-year age group in Cambodia. This is 30% of the total population of about 10 million. The percentage of rural children is 83%. According to 1996 estimates, 616,023 children of the age group 5-17 years work. This was 15.9% of all children in that age group. The estimates are presented in a tabular form. A strong province-wise variation is noted while considering the distribution of child workers within Cambodia.

It is difficult to obtain a firm figure on the extent of child labour in Vietnam. Information obtained from different sources does not tally and estimates are at wide variance. In poorest families the percentage of working children was estimated at 73%. The total figure of child workers may be more than 3 million. The incidence of child labour in Vietnam is far above the Asian average of 20%. It appears to be even higher than the child labour incidence of 40% for the African continent. Figures for Malaysia are also presented, but like Vietnam there is a fair degree of uncertainty about the figure.

A national survey of working children in Philippines indicated that there are 3.7 million working children in the country out of which 1.836 million are in the 5-14 years age group. The gender wise division was found to be in the ratio of 2:1. About 1.2 million boys worked compared to about 0.6 million girls. This is in contrast to nearly equal distribution of boys and girls in Thailand. Child participation rates were more than three times higher in rural areas (24%) as compared to urban areas (7%).

The various occupations in which children work have been discussed in detail with special emphasis on the countries of the select region. The incidence of child labour in the agricultural sector has been often understated. But, a 1995 Report of the U.S Department of labour indicated that 7 to 12 percent of the work force on plantations in the developing countries consist of children. The popular notion of child labour stems from an urban image that “ has its origins in the struggle against child labour in the last century in Europe”. Thus the popular perception of child labour got inextricably linked with the exploited child textile worker and the chimney boy. In this perception, it is presumed, wrongly of course, that children working in fields and farms are not oppressed and are not subjected to hazardous conditions. The reverse may actually be true.



The primary motivation to employ children is economic. Unless they are cost-effective, there will be no demand for child labour. The fact that this practice is widespread proves that child labour is cheaper per unit goods and services produced compared to adult labour. Poverty is both the cause and consequence of child labour. They reinforce each other; poverty-giving rise to child labour and child labour perpetuating poverty. Because child labour excludes or restricts access to education and jeopardizes the chances of upward social mobility, it perpetuates poverty. The lack of education impacts on earnings throughout life. Thus, child labour depreciates the human capital of a nation and society. These are terrible long-term costs that are forgotten in the daily struggle of the poor to subsist.

Gender bias is a contributing factor to female child labour. The girl child is discriminated against in many cultures, particularly in Asia and Africa. Poor parents tend to use their limited economic resources for the education of their male offspring to the disadvantage of the girl child. The girl child is expected to tend the younger siblings and help out her mother in her employment.

The political dimensions of child labour relate to the functions performed by the national governments concerning the practice of child labour. The respective national governments must formulate policy guidelines and goals, enact laws, establish competent enforcement mechanisms, provide the economic resources and generally do whatever is needed to progressively eradicate child labour practices within their national boundaries. In fact, a reliable measure of the political will of the national governments is the effectiveness of the national legislation and the enforcement mechanisms implemented by them.

Child labour is being increasingly recognized as a common problem of all humanity. This is the prime motivation behind the growing body of international standards on the subject. Often, national legislation borrows considerably from international enactment. Thus, international standards have a key role to play in guiding, and moulding the perceptions and policies of national governments and their peoples.

Current international standards on child labour have been examined. Three conventions have been considered for detailed discussions – the UN Convention on the Rights of the Child, the Minimum Age Convention (C138) and the Convention on the Worst forms of Child Labour (C182). These three instruments form the backbone of international standardization on the subject. National legislation in the five ASEAN countries and the status of enforcement of respective national laws has been evaluated. An assessment is made concerning the compliance to international standards by national laws of the selected countries. Also, the role and efficacy of legislation in the fight against child labour is examined.

Detailed description of national laws on child labour is provided for two countries, namely, Thailand and Philippines. These countries are chosen to demonstrate a paradox: despite stringent legislation these two countries suffer the problem of child labour in its most acute form, as exhibited by widespread child prostitution and trafficking. Clearly, the enforcement mechanism is feeble in these two countries. The record of the other three other countries in this context of their national legislation is examined and presented in a tabular fashion. National laws vis-à-vis enforcement status in Cambodia, Malaysia and Vietnam is also considered. The chasm between the law and its implementation is significant but not so acute.

Unless the national legislation provides proper details of what work is hazardous, the law would remain vague and poor enforcement will be the likely outcome. Table 2-6 is constructed to examine this aspect in the national legislation of the selected countries. Study of this table clearly indicates that except for Thailand, the other four countries have not carried out a detailed identification of hazardous activities.

The need to undertake a study of hazardous activities performed by children, including handling of dangerous material in each of the select countries is stressed. It would be desirable if this study were carried out under the umbrella of ASEAN for the countries in the region. Once a harmonious list of hazardous work is drawn up, each country can carry out national legislation separately.

It is noted that most countries rely heavily on legislation in their attempt to regulate and eradicate child labour. But if the current status of the problem is any guide, mere reliance on national laws cannot resolve the problem. This is not to say that laws against child labour are not needed. Indeed, law making is an important step – but only a step, not a total solution to the problem. The child labour issue has economic and social dimensions. Poverty and ignorance are both its causes and consequence and these factors can not be tackled merely by law making.

It has been concluded that while law making may not be the answer for general child labour, the worst forms of child labour as witnessed in child prostitution, child trafficking and employment of children in hazardous work, must be fought with the full force of the law. The worst forms of child labour arise from human avarice and greed – not out of economic necessity. It is therefore necessary for the national legislation to consider them as heinous crimes and prescribe deterrent punishments for the offenders.

A commentary is also presented on the question: How much of law making is sufficient?

The economic dimensions of child labour are the subject matter of Chapter 3. It has been postulated that child labour occurs when this economic equation is satisfied – the *greed* of the child employers matches the *need* of the child worker (and his family). Unfortunately, this equation is satisfied in 125 million cases around the globe. The fight against child labour involves a variety of measures that would break this exploitative economic relationship between the employer and the child by curbing the greed of the employer and diminishing the economic need of the child worker. An analysis follows that examines both the 'need and the greed aspect' of the economic equation.

The demand-supply model used for commodity markets is applied in the case of child labour to gain insights into the economic aspects of child labour market. Furthermore, various economic incentives that could compensate the loss in family income if child workers are sent to school are described. This chapter also examines the debate between the developed and the developing countries on linking trade with labour laws. The insights gained from the economic model presented is used to conclude that trade sanctions and coercive measures can prove to be counter-productive in poor countries. The state of the economy of each country must be examined to determine the efficacy of such an approach.

It has also been pointed out that the issue of adult education has been largely ignored in the child labour debate. Though, the linkage between child education and child labour is well established and understood, educating parents of child workers as a measure to reduce child labour incidence has

not been considered so far. It has been concluded that this approach can yield handsome results and must be followed vigorously.

It has been noted while considering the psychological aspects of the child labour issue, that rehabilitation measures of child workers must not look at the physical and economic aspects, but also focus on psychological issues. No rehabilitation measure can be considered to be satisfactory unless the damage caused to the child psyche is adequately addressed.

The fifth chapter takes a look at the role of ASEAN on the child labour issue. It is seen that ASEAN has played a largely passive role and has reacted only due to the threat of the incorporation of the Social Clause. The response of ASEAN has been defensive and designed to underplay the problem.

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