

CHILD LABOUR & HUMAN RIGHTS : BANGLADESH PERSPECTIVE

by

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1. Introduction

'*Child Labour*' refers to an *economic practice* as well as to the consistent *social evil*. As an *economic practice* child labour signifies employment of a child in gainful occupation or a material contribution to the income of a family. Child labour as a *social evil* can be understood in the context of the nature of the job in which the child is engaged, the danger to which he is exposed in his work and the desirable opportunities of which he is deprived by virtue of his untimely employment.

Child labour is often associated with *exploitation*. There is exploitation whenever a child is (a) underemployed or not paid at all, (b) made to perform tasks which place his/her physical and mental health and development at risk, (c) made to work excessively long hours, (d) subjected to ill-treatment, and (e) denied fundamental rights.¹

There are *two main arguments about policy* concerning child labour. One group of people advocates the *immediate abolition of child labour*. Another group of people favours *evolutionary approach*. They argue child labour can not be abolished as long as mass poverty exists. So, the best that can be done is to legitimize child employment and to ensure that child workers are provided with adequate protection.²

2. Child Labour in Bangladesh

Available information suggest that child labour constitutes about 15% of total labour force of Bangladesh. In 1990, it amounted to

1. United Nations, 1992. Economic and Social Survey of Asia and the Pacific, 1990. P. 115.

2. Ibid. P. 117.

approximately 33 million.³ increasing poverty favours the children into child labour. They become child labourers to supplement the family income. They are bereft of education. The children of Bangladesh are left uncared for and restricted.

A 1990 study on child labour in Dhaka city indicated that 70 percent of the working children came to Dhaka with their families as refugees. Of these child labours, about 85 percent are boys. Their average age is 12 and they work for 10 hours every day. Their average monthly income is 572 taka (USD 16). Of these child labourers 50 percent have never gone to school.⁴

Children are engaged in different fields like porters, cleaning and repairing cars, motor cycles, tempos, selling water to waiting passengers, making brick-chips, hawking, selling newspapers and magazines, working in the tea-stalls, restaurants, selling flowers on the city streets, collecting and selling waste paper, plastic scraps, metal work, prostitution etc.

A large number of children is engaged in the garments factories. According to a statistics, in different *garments factories* of Bangladesh, 30 percent of the workers are children.⁵ They work till late at night or overnight while they are not provided with transportation or food. Employers take advantage of their situation and recruit them with very low wages. Most of them have no weekly holidays or medical leave. If a child is absent from work for a day he will either have that day's salary deducted or lose his job. Girl workers under 15 are preferred in these factories, as they work for less, are unmarried and cause no labour problem. It is reported that in many factories the child workers are appointed as 'apprentices' or 'helpers' for months and are not issued appointment letters even after completing the apprenticeship period.

3. CCHRB. Bangladesh. State of Human Rights, 1991. Dhaka, 1992, P. 85.

4. Ibid. P. 86.

5. *Bhorer Kagoj*, 12 January, 1992.

In the rural areas 5 to 14 year old children work in farming, afforestation etc. But children who are engaged as domestic workers enjoy very little security. They do all the household activities from early morning to night and often become the victims of their masters or mistresses. Domestic child workers are also physically and sexually exploited by the owner or by other family members.⁶

3. Child Labour and Human Rights :

Protection of the child has been declared to be one of the fundamentals of the state policy of Bangladesh since the very inception of the Republic. *Articles 14 and 15 of the Constitution protect the rights of children and ensure the right of social security. Article 17 obliges the state to adopt effective measures for free and compulsory education for all children to such stage as may be determined by law and Article 18 empowers the state to make special provisions for the benefit of children.*⁷

All human rights are equally applicable to children. Universal declaration of Human Rights as a nature of fact entitle children to 'preferential treatment' as regards enjoyment of human rights. *Article 25.2 of the Universal Declaration reiterates : "Motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection.*⁸

For purposes of control of child labour special mention should be made of the *UN Convention on the Rights of the Child, 1989*. Bangladesh was one of the first 22 countries to clarify this convention. *Article 32 of the Convention* is of pertinent interest. It states :

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6. For an idea about how child labour is extensively used in different sectors including prostitution see. CCHRB. Bangladesh, State of Human Rights, 1992. Dhaka, 1993. PP. 77-81.
 7. For relevant articles of the Constitution see, The Constitution of the People's Republic of Bangladesh. Govt. Printing Press, Dhaka, 1986.
 8. For a text of the Declaration see, United Nations. Human Rights. A compilation of International Instruments, New York, 1988. PP. 1-7.

"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 interface with the child's education, or to be harmful to the child's wealth or physical, mental, spiritual, moral or social development."⁹

Article 32 makes it incumbent upon the state parties to take "legislative, administrative and educational measures to ensure the implementation of the article." It further directs the state parties to 'provide for a minimum age for admission to employment, provide for appropriate regulation of the hours and conditions of employment and provide for appropriate or other sanctions to ensure the effective enforcement of the article.'¹⁰ Though these provisions have been included in the national competence of the state parties, the Convention itself has defined as a child "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."¹¹ "However, in Bangladesh the age criterion to the restriction or prohibition of children in employment i.e minimum age levels, varies sharply in the various Acts/ordinances in force. This minimum age i.e the age below which a child may not be employed varies between 12-15."¹² Thus even the law has failed to maintain a consistency as regards to definition of a 'child'.

4. Causes of Child Labour :

Recourse to child labour, sometimes in violation of the protective legislation, can be attributed to a variety of causes. In a country like Bangladesh, where child labour is very widespread, its causes are many and varied; it is one of a number of *socio economic and cultural phenomena* whose effects are mutually reinforcing.

9. For a text of the convention see, Abdul Matin. The Children's Law of Bangladesh, Dhaka, 1993. PP. 251-280.

10. Ibid. P. 269-270.

11. Article 1. ibid. P. 253.

12. For a table of minimum age levels relating to child labour in Bangladesh see. M. Abdul Halim, Social Welfare Legislation in Bangladesh. Oihik, Dhaka, 1993, P. 51.

Clearly the *Principal cause of child labour is poverty*, which drives even young children to seek some extra income, however small, to supplement the family budget. The other side of the coin, of course is that in order to satisfy immediate vital needs, it is necessary to forgo satisfying some or all of the children's needs in respect of education, recreation and even, in a great many cases, health.

Entrenched tradition is another cause of child labour in less developed countries like Bangladesh. Even where there is no compelling necessity it is felt that from a very early age, a child should not expect to be fully supported by others but should make a contribution to the family's finances. In consequence, a great many children see nothing abnormal in missing school and starting work as soon as possible. This can be attributed in part to the ignorance of their parents who are unaware of the harmful effects of work at too early an age, who imagine that their children are learning a useful trade and who frequently do not see the point of them attending school anyway.

Another cause is the lack of schools and an adequate recreational infrastructure. Because of this, many parents try to find an occupation for their children to keep them from idleness and vagrancy.

Often there are other causes *such as tensions and uncertainties which* frequently reign in the home and are engendered or aggravated by poverty, mention should also be made of *migrations*, particularly to *urban centres*, which can lead to economic instability and insecurity.

Depicting the situation of child labour in Bangladesh one author with long experience of working with child labour writes;

"Every child upon attaining the age of 7 years becomes a potential bread-earner in order to fight for sustenance and survival. A Bangladeshi child born outside the minor affluent class learns to stand on his/her feet from the age of 7. Work varies according to sex, place and environment. A village girl of 7, or as a matter of fact, even an urban girl of 7, takes care of the younger children of the family, runs the household, looks after

livestock, poultry and sustenance farming, whilst the mother goes out to work in other households to earn their rice or money. Even in the event of the mother staying at home, the little girl cannot enjoy her childhood, but has to share the chores with her mother. Whilst the young girl is either assisting in or running the household, the young boy of 7 does not sit idly by. He has to assist in the fields or go out as help to work on others' agricultural lands, or as domestic help or as a cow or goat herder. A similar situation prevails in the urban areas also. Most minor children flock to the cities and towns to look for work and earn their livelihood since either they are orphans, deserted children or their parents cannot afford to sustain them."¹³

Similar sentiments have been expressed by another observer. In her words;

"The rural young children, who face a lifetime of back-breaking labour in the country are attracted by the luxurious life-style of the urban area and risking their lives they rush to the city searching for an easy way to live. They are deprived of their right to education. In addition to the "pull" of the standard of living in big cities and the hope of raising one's standard of living there are also push-factors that increase the migratory flow from the rural areas. They are engaged to work in the factories, in the families as servants, in the restaurants and shops as helpers. But these children, whom we consider "the future of the nation" are victims of oppression and the present money-oriented world is throwing them to the pits from where they never come up."¹⁴

5. Child Labour Law :

In such a situation, child labour is widespread in Bangladesh. As if to make things worse, there is no specific law in Bangladesh prohibiting

13. Sigma Huda, *The working child in Bangladesh*, in : CJP, children's Rights and child Labour, Dhaka, 1989, P. 83.

14. Rosaline Costa, *Situation of child workers in Bangladesh*, In : CJP, op. cit, p. 21.

child labour as such. Existing legislation generally concerns the child at work in factories, in industrial establishments, shops and commercial tea plantations, although the majority of the labour force, including the children are in the agricultural sector. "Not surprisingly, notes an author, "Child labour legislation has historically been a concomitant of the industrial civilization and the abundant exploitation of children and women in the industry." ¹⁵

There are five Acts/Ordinances which primarily relate to the employment of children in the non-agricultural sector of the economy. These are :

- a. *The children (Pledging of Labour) Act, 1933*
- b. *The Employment of children Act, 1938*
- c. *The Tea plantations Labour Ordinance, 1962*
- d. *The Factories Act, 1965*
- d. *The Factories Act, 1965*
- e. *The Shops and Establishments Act, 1965*

According to the children (Pledging of Labour) Act, 1933 a child is defined as a person under the age of 15 years. The Act was passed to "prohibit the making of a agreement to pledge the labour of children and employment of children whose labour has been pledged," It does not explicitly concern itself with children who are employed without such agreements. It has, therefore, little impact on the general employment of children. The Main principle of the Act is that no child labour should be pledged as this is seen to contain an element of compulsion and unfair exploitation.

The Employment of children Act, 1938 prohibits the employment of children only in specified occupation and forms of employment, particularly those pertaining to the handling of goods or transport of passengers and some processing work.

15. M. Abdul Halim, op. cit. P. 50.

The Act makes a classification of children on the basis of age for the purpose of prohibition of their employment. No child under *fifteen* may be employed or allowed to work in any employment concerned with transport of passengers, goods or mail by railway or handling of goods within the limits of any sea-transport. In respect of processing work, however, the scope of the Act is severely *restricted on two grounds* : *first*, it applies only to the employment of children under 12 years of age, and *second*, it applies only to workshops in which particular processes like carpet weaving, cement manufacture and bagging of cement, tanning, wood cutting, soap manufacture, cloth dying & printing etc. are carried out.

The Tea plantation labour Ordinance, 1962 contains provisions particularly applicable to women and children as there is high incidence of the employment of women and children in tea plantation. The Act *inter alia* provides that, (i) no child *under the age of twelve* is allowed to work in a tea plantation. (ii) no child (over twelve and under fifteen) and (iii) no adolescent (of over fifteen and under seventeen) is allowed to work unless he possesses a certificate of fitness from a physician or carries on his person a token testifying to the possession of such a certificate.

One of the main provisions of the *Factories Act, 1965* is that no child under the age of fourteen years is allowed to work in a factory whose labour force exceeds ten workers. It also provides that a child above the age of fourteen and below sixteen and an adolescent who is sixteen but not yet eighteen may work in a factory under certain conditions (*sec. 66, 67, 68*). The *working hours* of children and adolescents are restricted to *five hours* a day. They are also prohibited from working in a factory between the hours of *7 p.m. and 7 a.m.* The Act also prohibits the so-called. '*Dual employment*' meaning that no child may work in a factory on the same day in which he has been working in another factory.

The shops and Establishment Act, 1965 applies to shops and establishments which employ five or more people and contains

special provisions relating to the employment of children. Thus it is stated that,

1. a child who is *below 12 years* of age is not allowed to be employed in any establishment, and
2. a young person who has not completed 18 years of age is allowed to work in an establishment provided that he does not work more than seven hours a day or forty two hours per week.

It should, however, be mentioned that a large number of children are excluded from the purview of the Act, because *it does not apply to* :

- i) Offices of the Government of Bangladesh Railways including stations.
- (ii) Offices of local authorities or statutory bodies not run for profit.
- (iii) Shops or stalls in any public exhibition dealing in retail trade.
- (iv) Hostels or messes which are not run for profit
- (v) Establishments run for the care and treatment of the sick, infirm, destitute and mentally ill.

6. **Harkin Bill and Child Labour in Bangladesh :**

On September 23, 1993 the US Senate passed a bill initiated by senator Tom Harkin on March 18, 1993. The Bill - '*Child Labour Deterrence Act- 1993*', now widely dubbed as the Harkin Bill after the name of its initiator, aims to prohibit import of goods into the USA produced by employment of child labour. Tom Harkin specially mentioned the names of China, Nepal, Pakistan and Bangladesh as countries where child labour is widespread. Imposition of such restrictions on imports from such countries would '*curb the source of exploitation of child labour*' and induce competent authorities to implement child education programmes.¹⁶ In proposing the bill, Tom Harkin made a reference to the *Minimum Age Convention, 1973 (No. 138)* adopted by the International Labour Organization, which

16. See Shamim Ara Begum, Harkin Bill : An evaluation in the context of Bangladesh. (in Bangla).- "*Law Review*", Vol. 1, No. 5, September, 1993.

provides, *inter alia* that the minimum age for admission to employment should be raised progressively to a level consistent with the fullest physical and mental development of young persons, and that it shall not be less than the age of completion of compulsory schooling, and in any case, not less than 15 years. The convention also provides that children *aged between 13 to 15 years may be granted permission to perform light work in certain conditions, and that until the age of 18 young persons may not perform work which is likely to jeopardize their health, safety or morals.*

The Bill contains elaborate procedural provisions on how to determine the states-exporters of goods produced with child labour. The enlisted enterprises of exporter-states would also enjoy a right to be heard before imposition of restrictions upon them. The law envisages both civil and criminal liability for US importers for breach of any provision of the bill. While the civil liability right amount to a *fine of 25,000 US dollars. Criminal liability might consist of a fine of 10,000 to 35,000 US dollars and/or one year imprisonment.*¹⁷

One particular industry which has been hard hit by the introduction of the Bill is the *garments industry*- the most rapid growing sector of the industry in the last few years which employes the bulk of child labour in the industrial/non-agricultural sector. It has been mentioned elsewhere in the paper that 30 percent of the total labour force employed in the garment factories of Bangladesh are child workers.¹⁸ The other side of the coin is that the US is the single largest importer of Bangladesh garments. So, Bangladesh manufacturers/producers can not overlook the provisions of the Harkin Bill, and the Garments manufacturers/exporters Association of Bangladesh has already been cautioned against any violations of the Harkin Bill.¹⁹ The Association also secures to have taken the Bill very seriously albeit with reservations. One recent study conducted to determine the impact of the Bill reveals that in many of the garment

17. *Ibid.*

18. *Bhorer Kagoj, Jan 12, 1992.*

19. Shamim Ara Begum. *Op. cit.*

factories child-workers have been expelled as an immediate reaction to the bill.²⁰

No doubt, the Bill pursues very lofty idea . . . But unfortunately, it does not take into account the harsh realities of a country like Bangladesh, and seems to be doing more harm than good. One author sorrowfully concludes that "the Bill can neither guarantee a bright future for the children put out of work, nor ensure their education. The only thing it certainly can attain is their gradual journey to death "²¹

The introduction of the Harkin Bill has revealed the dialectics of human rights in a poor country like Bangladesh, whose child labour, though a curse, is sometimes seen as a guarantee to a dignified life and probation from starvation.

7. Conclusion :

Both child labour and the Harkin Bill, though self-excluding, are facts of life and all efforts should be made to attain the high ideals of the Harkin Bill without resorting to complete expulsion of the children from the working place. Recent experiences in different parts of the globe have shown a silver line of hope. In Turkey, for example, the city of Ankara has launched a programme designed to protect some 10,000 children working in the streets, at the same time providing them a possibility for social reintegration. ²² The city Authorities opened a hospitality centre designed especially for the street-kids in the nearby parking garage. Here, if the kids wish they can come, to wash, rest, recuperate, be looked after, play, do their school homework with the help of adult volunteers. The initial success of the project has been so astounding, that it is now being carried to other cities in Turkey.

20. Unpublished Report on the Impact of the Harkin Bill on the Garments Industry, conducted by Faustina Pereira for *Ain-O-Salish Kendra*, Dhaka, Bangladesh.

21. Shamim Ara Begum, Op. cit.

22. ILO. *World of Work*, No. 4, 1993, P. 10, Michael Fremont, New Shelter For Street Kinds of Ankara. In : *International Labour Review*, Vol. 118, No. 5, Sept.-Oct., 1979.

Needless to say, implementation of such ambitious projects require huge financial commitments. If guaranteeing a bright future for the children is the real concern of the Harkin Bill and of the West the rich and affluent countries should be prepared to finance the educational schemes for working children. The Ankara city Project also leads one to believe that given a realistic and viable project, the *IPEC (International Programme For Education of the Children)* of ILO would be more than willing to contribute.

The most important thing, however, is to work towards profound economic, social and cultural changes in the less developed countries like ours. Individual programmes are designed only to remedy one or the other defect of the existing system. We must look forward to the time when they will be made irrelevant by the institution of a new social system in which the exploitation of child labour will have lost its *raison d'etre*.