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Child Labour in Asia: An Informal Economy Perspective

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The ILO declares that the end of child labour is reasonably within reach. Its campaign to focus on the worst forms of child labour has yielded rich dividends, and has resulted in the reduction of the numbers of children engaged in such activities over the past few years.¹ Despite these successes, the numbers of child labour are staggeringly high, with the largest numbers of child labour in the world found in Asia. This paper focuses on the policy and legal frameworks needed to eliminate child labour in the informal economy, drawing on insights from South Asia.

The largest numbers of child labour are, not in the formal, but in the informal economy. In South Asia, they are employed in agriculture and in industries producing matches, glass bangles, carpets, goldthread embroidered garments, in small restaurants and within households as domestic workers. Many of the establishments that engage child labour are in the informal sector, but there are several linkages to the formal sector. For example, a part of the garment manufacturing takes place as home-based work, which forms a vital link in the supply chains in manufacturing offering a 'sweated' form of inexpensive labour to the manufactures. In urban areas, a large number of child labour are self employed or work along with their families as waste collectors, street vendors, in food stalls, and in home based work. The numbers of 'child prostitutes' is also alarmingly high.

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¹ See the Global Reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: *A Future without Child Labour* (2002); *The End of Child Labour: Within Reach* (2006). The 2010 Report is awaited.

Child labour is linked inextricably to poverty. Poverty reduction strategies for the population as a whole is therefore an important policy measure for combating child labour. Families are compelled to send their children for wage work or make them work alongside parents and other adult family members in their livelihood activities. Adult workers earn wages considerably lower than the stipulated minimum wages that requires children also to go out in search of work. The existence of a large pool of 'working poor' in countries of South Asia is an indication that the wages earned are often lower than the official minimum wage. Lack of enforcement of this crucial labour law contributes to the supply of child labour in these countries. The focus of campaigns against child labour focus on advocacy strategies often target parents against sending their children to work. What needs to be underscored is that, usually, it is the system of abysmally poor wages earned by adults that compels them to send children to work. In the race to make each country an attractive investment destination, there is pressure to reduce the 'rigidity' or 'burden' the labour laws cast upon employers. For instance, in India the 'Inspector Raj'² is cited as a reason to move towards a system of self-certification of labour laws. Given the large-scale flagrant violations of labour laws in the informal economy, such a move would render the already poor enforcement of laws such as the minimum wage law, even more dismal, with consequential impacts upon the numbers of child labour.

Another aspect that needs to be kept in mind while developing policies to eliminate child labour is that children often work alongside their parents who are engaged in waged work. This is often the case where the wages are determined by the piece-rate, which is often fixed at very low levels. This is the case in brick-making, construction, agriculture and other forms of home based work. Children work with their parents to increase the family earnings, since working eight hours by a single person may not yield the minimum levels of wages.

The vulnerability of child labour, many of whom worked as child bonded labour, is often cited as a reason for the continued demand for child labour in many Asian countries. These children are compelled to work for their employers in return for a small advance paid to their parents by the employers or intermediaries. The children are paid a small pittance well below the minimum wage and can never hope to repay the initial advance and therefore

² The Inspector Raj system is a short hand expression used to denote the financial burden and administrative costs that repeated inspections and maintenance of registers casts upon employers.

leave the employer. Child labour specific laws target employment of prohibited child labour and place criminal and financial liabilities upon offending employers. An analysis of decided cases from India indicates that failure by the state to establish that the child is under-age is a cause for many to escape liability.³ (The lack of documents – birth certificates or school certificates for a vast majority of child labourers, then requires a medical examination to establish the age of the child.)

The ILO's largest technical cooperation programme, the International Programme for the Elimination of Child Labour (IPEC) focuses on identification and release of child labour and their enrolment in schools. Other national-level approaches aim at reintroducing the child into the school education system and penalise parents who do not send their children between the ages of 6-14 to schools. These campaigns usually focus on the supply side of the problem of child labour. (Other approaches such as penalising employers who employ child labour, removing the wage differential between adult and child labour focus on the demand side).

As part of a strategy to enrol children in schools, countries such as China have dramatically increased the enrolment of children in schools, coupled with a major reduction of those below poverty. China enacted the Law of Compulsory Education in 1986. This law extended basic education to include three additional years of junior secondary school. The national campaign around this law has resulted in a near universal primary education in China, and therefore upon the numbers of child labour. India continues to have the millions of children out of school. These 'no-where children' are presumed by child labour activists to be performing child labour.⁴ More recently, India has amended her Constitution and enacted a law in 2009 providing for a Right to Education. We await the results of these initiatives, and only time will tell how much reduction in child labour will take place because of such measures.

Almost all the approaches discussed above usually focus on the child as a wage earner. This is because ILO Conventions and labour laws of many countries are premised on a distinction

³ See the section pertaining to Child Labour in Kamala Sankaran, *Halsbury's Laws of India*, Volume 17 on Employment (Unorganised Labour), New Delhi, LexisNexis Butterworths (2003); --, Child Labour in India: Strategies for its Elimination, in Ved Kumari and Susan L. Brooks (eds.) *Creative Child Advocacy*, New Delhi /Thousand Oaks/ London, Sage Publications (2004).

⁴ These would include children who are not enrolled in school.

between child labour and child work. Work performed by children within family farms and workshops is not perceived as child labour, and therefore does not fall within the gaze of child labour prohibition laws. There are high numbers of children in unpaid work performed within the home, whether in the form of domestic work, care work, or in assisting their parents perform paid home based work. Labour laws and standards prohibit such unpaid work performed by children only in the case of objectively identified hazardous work, such as those identified in ILO Convention No. 182. (ILO's Convention 182 has two categories of the worst forms of child labour: the unconditional worst forms (slave/trafficked labour, compulsory recruitment of children in armed conflicts, prostitution, trafficking in drugs) and in hazardous work which is likely to harm the health, safety, or morals of children.)

Some countries, such as India, do not prohibit all forms of child labour. Instead, they make a distinction between hazardous and non-hazardous work, and permit the latter forms of work performed by children, subject to regulation of the conditions of such work. Several activists argue that all forms of work are hazardous to a child; and therefore contend that the line of prohibition of child labour needs to be widened. They therefore demand that the unpaid family work performed by children within the home to be included within that of national-level laws dealing with child labour.⁵ Doing so would increase the numbers of child labour in a country such as India from around 9 million to over 100 million.⁶ The ILO has chosen to focus on the elimination of the worst forms of child labour as an immediate goal, while Convention No. 138 dealing with other forms of child labour remains part of its decent work agenda.

Since child labour is usually present largely in the informal economy, strategies for its elimination need to be in consonance with other forms of regulation for the informal economy. Many countries in this region are now paying greater attention to the informal economy and policies and laws are under consideration in countries of South Asia and South East Asia. Policies targeting the informal economy include improved social security programmes, including promotional social security, which have the capacity of increasing the livelihoods of those persons and establishments working in the informal economy. Self-

⁵ See for instance, Neera Burra, Crusading for Children in India's Informal Economy, *Economic and Political Weekly* December 3 (2005), pp. 5199 – 5208.

⁶ G.K. Lietai, Child Labour: What Happened to the Worst Forms?, *Economic and Political Weekly* January 14 (2006) pp. 103- 108.

employment is the predominant form of employment within the informal economy in many countries in Asia. Gradually increasing the livelihood capacity of such self-employed households would reduce the dependence on child labour within such households. The relatively low presence of social dialogue and collective bargaining in the informal economy to set benchmarks for conditions of work, wages and benefits, has meant a greater state role for regulating conditions of work and creating social security benefits for those in employment relationships in the informal economy. Policies targeted at adult workers will undoubtedly have effects on the employment of child labour. In addition, a greater governmental role in increasing the capabilities of children and their families working in the informal economy requires greater support in making free and compulsory education a basic right and duty, and identifying this as an important means to eliminate child labour. Synergy between labour laws and broad social policies including educational, health and housing policies is necessary for creating conditions for the complete elimination of child labour.