Chapter III

THE ILO, THE UNICEF AND CHILD LABOUR
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The International Labour Organisation is the outcome of the Treaty of Versailles at the end of First World War. The primary purpose of the treaty was to maintain peace. But it was felt that peace could be established, only if it is leased on social justice. It was, therefore, thought that there must be some international regulations of industrial conditions and some international protection should be given to labour for the purpose of maintaining peace. Hence, on 28 June, 1919, the High Contraction Parties agreed to establish a permanent organization to improve the conditions of labour, by such measure as “The Regulation of the Hours of the Work, including the establishment of a maximum working day and a week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers, when employed in countries other than their own, recognition of the principle of freedom of
association the organization of vocational and technical education and so on." So the conception of ILO.

The International Labour Office, has its headquarter located in Geneva. It is continually engaged in studies and research on problems connected with labour and a clearing house of information on social and industrial questions. Its principal function is to establish the recommendations which are collectively known as International Labour Code.

Policy Frame Work

Among other things, the eradication or abolition of child labour is one of the main objectives for which the ILO was created and the promotion of the well being of children in the fields within the ILO’s competence, have been the focal points of much of the organizations work. A major part of that work has been the adoption of the International Labour Conference, numerous Conventions, recommendations and resolutions about the employment of children and other aspects of child labour.

The ILO is the pace-setter, because it lays down the standard for the safety and welfare of the employed classes. As regards the child labour, the ILO has adopted 19 Conventions so far. These relate to the minimum age of the tender populace for employment, medical examinations, night work and the elimination of the worst forms of child labour. On these subjects, nine
recommendations have been adopted by the ILO, apart from the recommendations, many Conventions have been adopted and these are explained as they relate to child labour.

**The Minimum Age for Employment and the Categories**

The ILO has adopted only ten Conventions in respect of the minimum age for employment. Seven of them cover major sectors of economic activities and the rest relate only to the limited categories of work.

The first of them, the Minimum Age (Industry) Convention (No.5), 1919, lays down that children under 14 should not be employed in any public private industrial undertaking in which only the family members are employed. The term "Industrial Undertaking" includes quarries, manufacturing industries, construction, maintenance and repairs, and transport of passengers or goods by road or rail or inland water, including handling of goods at docks, but excluding transport by hand. India has ratified this Convention and it is fully implemented.

This Convention was partially revised in 1937 by the Minimum Age (Industry) Convention (No.59). This Convention only raised the minimum age or admission to industrial, establishments from 14 to 15. India has not ratified this convention.
The Minimum Age (Sea) Convention (No.7), 1920 was adopted by the ILO in 1920. Under this Convention, no children under 14 years should be allowed to work on vessels except those on which only the family members are employed. Vessels include all ships and boats of any nature whatsoever engaged in maritime navigation, whether publicly or privately owned, but it does not include ships of war. India has not ratified this Convention, for the reason that a large number of Indian seamen are employed on foreign ships. It is held that its ratification by India would be of no avail, until the other countries also agree to ratify it. This Convention was also revised (No.58), in 1936 to raise the minimum age of children for admission to employment on vessels from 14 to 15. India has not ratified this revised Convention for similar reasons.

**Agriculture**

Regarding the agricultural sectors, the ILO adopted the Minimum Age (Agriculture) Convention (No.10), 1921 prohibiting the employment of children under 14 years in public or private agricultural undertaking except outside the hours fixed for school attendance. However, the Convention does not have any special provision in its application in India. This Convention has not been revised and no other Convention on minimum age in agriculture has been adopted.
Shops, Office and Hotels

The Convention (No.33) of 1932 was revised in 1937 as Minimum Age (Non-Industrial Employment) Convention (No.60). This Convention has special provisions for application to India. For example, children under 13 years of age shall not be employed in non-industrial occupations like shops, offices, hotels, restaurants, places of public entertainment or any other non-industrial occupation to which the Convention refers.

Ships and Mines

The minimum Age (Trimmers and Stokers) Convention (No.15), 1921, provides that young persons under 18 years should not be employed on vessels as trimmers or stokers. But they can do work on school ships or training ships and on vessels mainly driven by means other than steam. India has ratified this Convention and its provisions have been implemented.

In 1965, the ILO adopted the Minimum Age (Underground Work) Convention (No. 123). This provides that minimum age of young persons for work in underground mines should be fixed in consultation with the organisations of the employers and workers and that such age should not be less than 16 years. This convention was ratified by India in March, 1975.

The general minimum age for admission to employment or work, laid down by the ILO Convention (No. 138), in 1973
is set at 16 years or not less than the age of completion of compulsory schooling, if this is higher. The Convention also sets the minimum age as 18 years for hazardous work. Light work may be permitted for those in the age of 13 to 15. India is not able to ratify this Convention due to inherent variations found in various labour legislations regarding the minimum age of admission to employment and other extraneous socio-economic conditions of the labour populace.

Otherwise, when a country formally agrees on the Minimum Age Convention, these age limits are incorporated in the national legislation. It is rather disheartening to note that—even the word ‘work’ is not interpreted in the same way in all countries. And, not all work done by children can be defined as Child Labour. Child Labour includes performing the work that is “harmful to the physical and mental health, safety and development,” as declared in the UN Convention on Rights of the Child.

In its session in 1999, the ILO has adopted a new Convention No. 182 on the “Elimination of the Worst Forms of Child Labour.” The worst forms include all forms of slavery or practices similar to slavery, such as the sale and trafficking of children formed compulsory labour debt bondage and serfdom: the use procuring, of offering of a child for prostitution, the production of pornography or for pornographic performances; the use, procuring and offering of children for illicit activities, in particular, the production and trafficking of drugs as defined in the
relevant international treaties; the work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children. This Convention would be path-breaking in identifying the children in these industries as particularly vulnerable and giving the elimination of such forms of top priority in its agenda. As Juvan Somavia, the Director General of the ILO observes, “with this Convention (No. 182), we have now the powers to make the urgent eradication of the worst forms of child labour and a new global course. This course must be expressed, not in words, but deeds, not in speeches, but in policy and law.

Medical Examination

There are five Conventions adopted by the ILO insisting on the medical examination of young persons, a condition to employment.

The Medical Examination of Young Persons (Sea) Convention, (No.16), 1921, requires from young persons under 18 years a medical certificate of fitness by an authorised doctor for an employment on any vessel, other than the one upon which only the family members are employed. Such certificate should be obtained each year, in the case of a continued employment of any such young person. India has ratified this Convention and it is being fully implemented.
The Medical Examination (Sea Farers) Convention, (No.73), 1946, obligates that no person to whom the Convention applies is to be employed in a vessel to which the Convention applies, unless he produces a medical certificate attesting his fitness for work at sea. This Convention applies to every sea-going vessel, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade and is registered in a territory for which this Convention is in force. India has not ratified this Convention.

The Medical Examination of Young Persons (Industry) Convention (No.77), 1946, applies to the industrial undertakings, which include mines and those engaged in the transport by road, rail, inland water ways or air etc. This Convention requires that children below 18 years of age shall not be employed in any industrial undertaking, unless they have been found fit through a medical examination by a qualified physician. This examination shall continue till the child or person attains the age of 18 (in the case of India 21 years) in occupation involving high health risks.

The Medical Examination of Young Persons (Non-industrial occupations) Convention, (No.78), 1946, requires that children and young persons under 18 should not be permitted to work in non-industrial occupations, unless they have been found fit for the work in question by a through medical examination. It has not been able to ratify this Convention in India because of its wide coverage.
The Medical Examination of Young Persons (Underground work) Convention, (No.124), 1965, provides for annual medical examination of all young persons below 21 years of age for fitness for employment underground and mines. The Indian Mines Act, 1952, provides for annual medical examination of only those young persons, who are under 18 years of age against 21 years as envisaged in this Convention.

Night Work

There are only three Conventions in this regard. Night Work of Young Persons (Industry) Convention (N.6), 1919, applies to the industrial undertakings, such as those relating to mines, quarries, manufacturing industries, construction and transport. It stipulates that young persons below 18 years of age, are not to be employed during night in any public or private industrial undertaking. The term ‘Night’ signifies the period of atleast 11 consecutive hours, including an interval between 10 p.m. and 5 a.m. This Convention has been ratified by India.

This Convention is partially revised by the Night Work of Young Persons (Industry), Convention (Revised) (No.90), 1948, which applies to industrial undertaking. The “Night” under this Convention means a period of atleast 12 consecutive hours. In India, industrial undertaking includes only mines, factories, railways and port. India has ratified this Convention.
Night work of Young Persons (Non-Industrial Occupations) Convention, (No.79), 1946, prohibits in its application to India, the employment during night, in non-industrial occupations of children under 12 years who are admissible for full-time or part-time employment, and the children over 12 years of age, who are not subject to full-time compulsory school attendance and young persons under 15 years of age. This Convention has not been ratified by India.

In addition to these Conventions, the ILO has adopted many resolutions relating to the protection of children and young persons, employed in different sectors of the economy. The most important of them is the resolution adopted by the ILO in 1945, pertaining to health, education, employment, protection and general welfare of children and young persons.

India is associated with the ILO since the latter's inception in 1919. The record of labour legislation in India indicates that there had not been important labour measure on the statutes upto 1919. All major labour legislation had been passed only after that year. The Constitution of India was influenced by the Declaration of Philadelphia, adopted at the 26th session of International Labour Conference held in May, 1944.

India has been able to ratify only a few Conventions out of the 19 conventions till now, because of technical and administrative constraints and difficulties. But the fact remains
that, where ever necessary, India has taken the unratified Conventions as norms.

Two international programmes like the IPEC (International Programme Elimination of Child Labour) and the CLASP (Child Labour Action Support Programme) have supplemented and strengthened the governmental initiatives to eliminate child labour. India was one of the first countries to join IPEC in 1992. It has the following objectives:

- Help, design and implement projects to eliminate child labour;
- Identify community and national level interventions that can be replicated.
- To create awareness and mobilise society towards ending child labour.

**Unicef and Its Role**

UNICEF programmes are being run in about 100 countries. A specialised agency of the UN was established in 1946 with the selective of delivering post-war relief to children all over the world. Its main areas of work are health, education, food, disease control, baby-care centres and so on. It helps the member countries including India, by supplying food, medicines, clothes for the needy children. It lays emphasis on developmental activities aimed at approving the quality of life for children and mothers in the developing countries. It was awarded the Nobel Peace Price.
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for its work in 1965. It is funded entirely by voluntary donations and sale of cards and other stationery schemes. India has been associated with it since 1949.\textsuperscript{8}

The well being of children has been the inspiration of the United Nations International Children's Emergency Fund for the past five decades. It is from this perspective that the UNICEF adds its voice, concern and experience to the debate about child labour. The UNICEF urges that "priority given to efforts for the immediate end of exploitative and hazardous child labour and to urgent support for education, so that children may acquire the knowledge and skills that can enable them to better their lives. It also lays emphasis on the need for basic services, social development strategies, income generation measures and legal protection for children, their families and communities"\textsuperscript{9}

The United Nations and its agencies have a long history of collaborative action on challenging questions concerning human development and human rights, the environment and global health. The UNICEF lays emphasis on collective action to deal with child labour. Children can be protected from the economic exploitation by the co-operative and integrated working of governments, national and international organisations/agencies and all members of the world community. "The ending of the exploitative, hazardous, child labour, a primary concern of the ILO and UNICEF, requires to become the shared and urgent goal of the world"\textsuperscript{10}
The Conventions of Rights of Child

A dramatic change has come to stay in the international approach i.e. the idea that children have rights, as do the adults. This conviction was expressed as the Convention on the Rights of the Child, which has now been ratified by all but a few nations. "Ratification specifically obligates the governments to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interface with the children's education, or to be harmful to their health or physical, mental, spiritual, moral and social development."

The Convention of the Rights of the Child is a significant and landmark document which has facilitated the conversion of the basic needs of the children into their normative rights. It is as important for tackling the children as the Constitution is for the country. It serves as a means to empower the children and to create an environment in which all children are able to live securely and realise their full potential.

While the Convention obligates the government to ensure the observance of its provisions, the responsibility of implementing the Convention do not require the intervention of judiciary or government delivery system to give the children their rights. Most of them are social and cultural commitments. Hence, the community and the parents have a significant role to play. In order to arouse public consciousness and political will in support
of the rights of the child, it is all the more necessary to create and raise awareness about this Convention and its provisions. The most important task before the government is to initiate a plan for creating awareness and disseminate the information contained in the Convention to every citizen in the manner in which one can understand the children’s rights as a judicial verdict.

People from various quarters and walks of life must know the details of the Convention and its implications, so that, they can willingly participate in the development programmes for children.

"To an organisation born among the ruins of war, it seems as if the historical wheel has come to a full circle. The twin movements on behalf of children – one based on “rights” and the other on “needs” have come together and formed one whole. The “rights” approach focuses on those who are disadvantaged by denial of specific legally constituted rights. But reaching children with “basic needs” – under the terms of the Convention on the Rights of the Child-targets a virtually identical group. Those who are disadvantaged by the non-met rights are ultimately children”.12

The UNICEF and its many partners in the children’s movement have played a vital role. But for their championing, the children’s cause could not have been propelled to its current high levels of visibility and policy commitment. In the years ahead, the UNICEF’s challenge is to sustain that visibility and put it to
work on behalf of the future generations. The UNICEF believes that education can be taken to child workers more directly. The idea of 'street educator', pioneered in Latin America, is now being usefully initiated by many countries. The educationists make contacts with the children, helping them back into schools, assisting them in obtaining medical care and supporting attempts to reintegrate them with their families.

**Unicef India and Child Labour**

UNICEF India is forging a strong case against child labour with the aim of its abolition within the specified period of time in a phased manner by 2010 A.D. Basically, UNICEF India policy on child labour envelops the following aspects:

All forms of child labour, should be eliminated to comply with the agreed child rights.

The enactment and enforcement of legislation to make primary education compulsory is a pre-requisite for the elimination of child labour. While poverty alleviation is clearly relevant, it is neither necessary, nor desirable, to await economic development as a means of eliminating child labour. The modification and enforcement of the existing legislation on child labour is a necessary, supportive measure for the elimination of child labour.
In addition to continuing the support for government programmes on child labour, UNICEF seeks to strengthen the non-governmental alliances which are effective in drawing public attention to the issue and generating social mobilisation for the elimination of child labour. "While advocating for an end to child labour, UNICEF focuses on programmes to rehabilitate children, released from labour into the educational system and to improve the livelihood of their families through support from anti-poverty programmes."

**Objectives of Unicef India**

The general objective of the UNICEF is its collaboration with the government, NGOs, legal experts, international agencies and private industries to promote the elimination of child labour and to rehabilitate the children freed from labour. The specific objectives of the UNICEF are:

- To promote compulsory primary education as the fundamental strategy for prevention and eradication of child labour by enrolling and retaining children in schools.

- To advocate for revision and enforcement of legislation to prohibit child labour, particularly in hazardous occupations and industries.

- To assist the Central and State governments to develop and implement programmes and action plans for the release and rehabilitation of children from labour in various industries and occupations.
o To promote convergence of all sectoral and development programmes for prevention of child labour.

o To strengthen the monitoring systems on child labour.

o To strengthen alliances between the NGOs, media, industry and the legal sector for social mobilisation for the elimination of child labour.¹⁴

Not all labour, however, is hazardous. It is the nature of the work the children do and the conditions in which they labour - not the fact that they work - that determine how they are affected. The UNICEF advocates a comprehensive strategy against hazardous child labour, including compulsory education for children and employment for parents. The UNICEF considers the exploitative child labour as "a moral outrage" and has resolved to make its "total and "de facto" elimination an "immediate priority. The fact, however, remains that "for so many of the world's children, it cannot happen soon enough".¹⁵

**Strategy**

The overall strategy of the UNICEF is based upon the advocacy for the government to adopt and pursue stronger policies to eliminate child labour and promote compulsory primary education and for industry to respond constructively to pressures to replace the child with adult labour. In addition, the strategy seeks to develop and strengthen new alliances (NGOs, industry, external agencies, media, academics and advocates), that may
bring innovative approaches to bear on the removal of children from the workplace. It is also recognized that more reliable data are required to assist advocacy and monitoring in the context of child labour.

NGOs are of the view that the UNICEF ought to be the principal agency for child labour because of its specific responsibility for child welfare. In looking ahead to the adoption of the UN Convention on the Rights of the Child, some NGOs saw the UNICEF as the chief regulatory agency for this instrument. UNICEF views that some specific actions are urgently needed on the following.\(^{16}\)

**Education**

"Universalization of primary education is considered a critical and effective strategy for elimination and prevention of child labour. UNICEF is willing to support the initiatives of State Governments to enforce compulsory primary education in districts of concentration of child labour drawing support from the enabling constitutional provision of compulsory primary education."\(^{17}\)

The UNICEF promotes inter-sectoral interventions, with special emphasis on collaboration between the Ministries and Departments of Labour and Education for a joint strategy towards the elimination of child labour. The UNICEF also facilitates the dissemination of successful NGO experiences in removing children
from the work place and integrating them into the school system, through training, workshops and field visits.$^{18}$

**Legislation**

The UNICEF works closely with the ILO, UNESCO, the National Labour Institute, NGO networks and professional groups, particularly the legal profession in the area of the legislation but the role of legislation in removing children from the workforce had been important in the past. There is, however, some ambivalence in the Indian legislation on the matter, since it seeks to regulate child labour but does not consider it entirely unacceptable. The practice is prohibited in certain identified, mainly hazardous industries but not in other. Moreover, while part of the Child Labour Act asserts that no child shall be permitted to work in these processes or occupations, there are clauses which offer exemption to any establishment in which the work is undertaken by the owner’s family. Loopholes, therefore, warranted and the UNICEF advocates for government’s attention to this as well as more rigorous enforcement procedures.$^{19}$

**State Based Programmes**

Through the UNICEF State Offices, assistance is provided in key states for the development of inter-sectoral programmes for the release and rehabilitation of child labourers.
A start has been made in Tamil Nadu, where a Joint Committee convened by the Chief Minister conducted research and developed an integrated strategy for combating child labour in the fireworks and match industries of Sivakasi.

Action has been initiated by the introduction of compulsory primary education in the State. The strategy also involves rural development and income generation schemes targeted to the children’s families.

This approach to integrated planning should be replicated in other States, employing the UNICEF’s presence in the field and comparative advantage in being able to link different sectors in a common objective. Initially, planning may best be targeted to the more visible industries employing children in the State.
REFERENCES


2. Ibid., pp.4-5.

3. Article 2 of Convention (No.5), 1919.

4. However, the fact remains that, in India, Children under 12 years shall not be employed in factories working with power and employing more than 10 persons in mines and quarries and in transport by rail and handling of goods at docks, quarries.


6. Ibid., Back Cover of the Volume

7. Ibid., p.31.


12. Ibid., p.21

14. **Ibid.**


17. Award Digest, **op.cit.**

18. Common Position Paper of the **UN System in India on Child Labour**.