CHAPTER - 2

THE POSITION OF CHILD LABOUR IN SELECTED ASIAN COUNTRIES – AN OVERVIEW

2.1 Child Labour and Selected Asian Countries

The economic exploitation of children is an insult to humanity. All over the world children continue to work, putting at stake their education, their health, their normal development to adulthood, and even their lives. Millions of them work under hazardous conditions endangering their health, safety and welfare. They toil in mines and quarries, are exposed to agrochemicals in agriculture, squat in crippling positions to weave rugs and carpets, and scavenge in rubbish tips. Too many are enslaved in bonded labour, isolated in domestic service, and traumatized.

Child labour is a universal problem. It is existing more or less both in developed and developing countries. But the problem is acute in the developing countries than developed countries. In developing countries like the Asian countries, the children are exploited, deprived of educational, mental and physical growth, put to hazardous nature of work and forced to work basically in order to maintain living conditions of their families.

The rights of children are enshrined in the constitutions and the local laws passed by most of the countries. Yet, the exploitation of children in the developing countries are still persisting and on the increase. The emphasis ought to be on the development of child than on the eradication of child labour.

According to ILO estimates, there are some 250 million children between the ages of 5 and 14 years who are in economic activity in developing countries
alone. From 120 million of them, work is a full-time activity. The remainder combine work with schooling or other non-economic activities.

While most child labour is found in the developing regions of the world, industrialized countries are not entirely free of it either. In Eastern and Central Europe, for example, child labour has been reappearing in the wake of social and economic dislocation caused by the transition to a market economy.

Although the U.S. often lead campaign to reduce child labour in developing nations such as India, this week Washington was embarrassed by a report on the debilitating effect that tobacco plantations have had on the health of children seven years old working there.

According to a 138 page study by the Human Right watch advocacy group, in the absence of child labour policies that sufficiently protected children from hazardous work in U.S. tobacco forms. Child tobacco workers aged 7 to 17 reported that many of them working long hours without overtime pay, often in extreme heat without shade or sufficient breaks, and wore no or inadequate protective wear. Many child workers said that they had begun working on tobacco farms at age of 11 or 12, primarily during the summer, to support their families.

Ironically under U.S. labour law, children engaged in agriculture are permitted to work longer hours, and in more hazardous conditions than children in any other industry.76 (The Hindu dt. 15.5.14).

In absolute terms, Asia, being the most densely populated region of the world, has the largest number of child workers. 61 per cent are found in Asia. 32 per cent in Africa and 7 per cent in Latin America.

In relative terms, however, Africa comes first in the proportion of children participating in economic activity, with an estimated 41 per cent of the total number of children aged between five and 14 compared to 22 percent in Asia and 17 per cent in Latin America.

More boys than girls work, close to an average ratio of three boys to two girls. With 37 per cent, Africa has the highest participation rate of girls among the developing regions of the world. However, surveys do not take into account domestic work in one’s own household or caring for sick or disabled family members. More girls than boys perform this type of work - many of them between the ages of eight and 12. If such work were taken into account there would be a little or no variation between the sexes in the total number of working children, and the number of girls might even exceed that of boys. This type of work can be as detrimental to children as that done outside the home since it is reported to be the main reason for about one-third of youngsters not attending, school. Household work also represents hazards, such as danger from unsupervised cooking and caring for siblings which can be far too great a responsibility for a young child.

The relative level of the child workforce in any one economic activity can vary widely from one country to another. However, one the basis of data collected from a number of countries, average levels can be estimated of children working in different branches of economic activity and in various occupations.

The largest proportion of child workers is in economic activities and occupations related to agriculture. Although the average proportion of children in agricultural activities and occupations is 70 to 74 per cent, it can be as high as 90 to 95 per cent in some countries. The percentage of girls in such activities is higher than that of boys.

A large majority, around 70 per cent, of child workers are unpaid family workers, especially in rural areas where working girls outnumber working boys. They are engaged in domestic service, agriculture, home work and small family enterprises, either in rural or urban areas.

More than four in five children work without pay. Most of those working as paid employees are paid much less than the prevailing rates in their localities, even when compared with the legal minimum wages. One survey found children receiving only one-sixth of the minimum rate. Also, the younger the working child, the lower is the wage payment. Generally, children are not paid for
overtime work although many of them work additional hours and often are required to do so when demand for various services reaches its peak and / or when there are labour shortages.

When compared, other developing countries such as Sri Lanka and Malaysia, have lower activity rates: 5.3% for Males and 4.6% for females in Sri Lanka, and 8.8% for males and 6.5% for females in Malaysia.\textsuperscript{77}

\section*{2.2 National Legislation and Policies Against Child Labour in Sri Lanka}

The first welfare policy in Sri Lanka to affect child labour was the system of vernacular state education developed at the beginning of the 20\textsuperscript{th} Century by the British for children from rural communities and the plantation sector.

\textbf{The Children and Young Persons Ordinance of 1939} was the first intervention focusing specifically on children and stated that no child under the age of 14 years could be employed in such a way as to prejudice schooling. The concept of universal free-education from primary to tertiary level was introduced in 1945.

In the 1950’s the national languages became a medium of instruction in the secondary schools and universities. This along with the free education brought education to a wider population. Provisions under the constitution facilitate the introduction of measures to prevent the exploitation of child labour. Thus, it can be used to implement radical reform in law and policy on child labour and remove certain existing anomalies in labour legislation. The first legislation of child labour was passed in Sri Lanka in 1923 in line with the Minimum Age (Industry) Convention, 1919, restricting child employment in industry. This existing legislation on child labour was revised in 1956 and included in the Employment of Women, Young Persons and Children Act. More recently, Sri Lanka has ratified the United Nations Convention on the Rights of the Child 1989.

\textsuperscript{77} International Labour Organisation Report, 1995, p. 113.
Sri Lanka is a signatory to the:

- ILO Worst Forms of Child Labour Convention (No.182);
- ILO Minimum Age for Employment Convention (No.138);
- ILO Forced Labour Convention (No. 29);
- ILO Abolition of Forced Labour Convention (No. 105);

**Government Policies and Programmes of Sri Lanka**

Since 1994, the Government of Sri Lanka has given high priority to the protection of children from physical and sexual abuse, from exploitation through child labour, and from the effects of armed conflict. In 1996, a Presidential Task force on the prevention and control of child abuse was set up, which made far-reaching recommendations, including the establishment of a National Child Protection Authority, (NCPA) functioning under the direct purview of the Executive President. The NCPA was established in June 1999. The basic goal of the NCPA is the elimination of child abuse in all its forms and manifestations. The NCPA operates in four main areas: protection, advocacy, rehabilitation, and legal reform. Since very often, child abuse entails an element of trafficking, the NCPA is the pre-eminent national agency driving the anti-trafficking mission. With support from the ILO’s International Programme on the Elimination of Child Labour (IPEC), the NCPA has initiated an anti-trafficking unit. The powers and functions of the NCPA and its strategic location under the Executive President eminently qualify it to be the coordinating agency with the relevant ministries, provincial councils, local authorities, and private as well as public sector organizations.

In October 2006, the Government of Sri Lanka presented its Ten Year Development Plan known as the Mahinda Chinthanaya -- one of the leading and guiding documents in respect to the development policies of the country. The issue of child labour is well articulated in several chapters therein. The new government policy also gives special focus to the plantation sector which is a
prime sending area for child domestic workers, children in small factories and boutiques and other forms of exploitative employment including the trafficking of children as child soldiers.

In September 2007, *A Youth Employment Policy and National Action Plan*, supported by the ILO, was presented for public comments and feedback. The policy takes into consideration the importance of eliminating child labour by placing great emphasis on the issue of access to quality education.

Sri Lanka’s major industrial and agricultural enterprises do not employ children. Sri Lanka’s achievements in the provision of education and welfare service are among the most impressive in the developing world. However, child labour continues to present challenge in the country. Most children work in very informal sectors, in small unregistered concerns, in private homes or sometimes even in illegal enterprises. Children are concentrated in occupations in which wages are low, working conditions are dangerous, workers rights are not recognised and labour organisation is absent. Also the civil strike in Sri Lanka as exposes children to new dangers and more exploitative forms of labour. Child prostitution and the traffic in children for use as camel riders in the Middle East are among most recent forms of child labour.

The main thrust of public policy in Sri Lanka has been to allow a low (12 years) age threshold for admission to employment, while protecting older children by excluding them from certain specified occupations and regulating conditions of work. A distinction is made between prohibited, hazardous employment and permissible, non-hazardous labour which is controlled. In Sri Lanka, there is a need to complement the establishment of universal free education and the enforcement of labour legislation with a coherent welfare programmes.)

**Constitutional Safeguards**

Under the *Constitution of Sri Lanka, 1978, Article 27* (13) Directive Principles of State Policy and Fundamental Duties, the State pledges to ‘promote with special care the interest of children and youth so as to ensure their full
development, physical, mental, moral, religious and social and to protect them from exploitation and discrimination’.

In addition, the Draft Constitution (August 2000) Article 22, entitled Special Rights for Children, gives constitutional guarantees to the right of a child to be protected from abuse; to have access to free education between the ages of 5 and 14, and not to be employed in any hazardous activity. It also defines conclusively a child as a person under the age of 18 years.

Minimum age for Employment

The minimum age for employment of children was raised to 14 years in December 1999 by an amendment to the Employment of Women, Young Persons and Children Act (No. 47), 1956. At present, the minimum age of employment in all sectors is 14 years. Further, through the Ministry of Labour, the legislation has been amended to provide for payment of compensation to victims, by employers violating the minimum age of employment laws.

Hazardous Child Labour

In August 2006, there has been a change in the legislation which now empowers the Sri Lankan Ministry of Labour to enact laws that prohibit the employment of children in hazardous forms of child labour. Accordingly, a list of hazardous forms of child labour is in the process of being finalized.

Changes in Sri Lankan economy and society in recent decades have also resulted in the growth of child labour in a range of new activities, both exploitative and dangerous. A large number of children in Sri Lanka live and work in small unlicensed or unregistered concerns as hotels, tea kiosks, food and grocery shops, etc. However, legal prohibitions on employment of children under the age of 14 years in hazardous activities or in those which prejudice their education have effectively excluded them from formal employment in public sector. In an effort to combine education and employment, children are required to work extremely long hours outside school hours, often at night.
Conditions and hours of Work in Sri Lanka, the governing law on child domestic labour is Act No. 47 of the Employment of Women, Young Persons and Children 1956.

Although the Act does not provide a specific proscription against domestic child work, According to Amendment Act No. 8 of 2003, a child can be employed only under the following conditions:

- In light agricultural work carried out by members of the same family only and also before the formal starting time of school or after closure of school.
- In activities of a training institution operating under government supervision.
- Apart from the above, no child should be employed in any occupation.

Section 15 of the Act charges an authorized officer to remove a child if the officer is convinced that a child is being employed in a manner detrimental to his or her health, physical development or education. Further under Section 17 of the Act, a child cannot be employed in a manner preventing his attendance at school. The Minister of Labour is also authorized to make orders regarding employment of young persons.

Section 21 of the Act details the areas where such regulations can be made and thereby enshrines the spirit of Article 32 of the CRC which places the state party under a duty to provide for appropriate hours and conditions of work:

- The number of hours they can be employed within a day or a week, and the periods they can be employed during the day time
- The intervals to be granted to them for meals and rest
- The number of full day or half day leave to be given
- Conditions to be followed when employing them
The Act set out the conditions for employment of young persons between the ages of 14 and 16 and regulates that a child can not be employed for more than 9 hours a day inclusive of an hour for lunch. Moreover, a child cannot be employed for over 5½ days on the sixth day and the seventh day must be a full holiday. In total the working hours in a week, including the hours for lunch should not exceed 50½ hours. These provisions setting out conditions of employment are a very important first step to regulate the conditions of child domestic labour but without strict enforcement that will not have the desired impact.

The law also is very strict about regulating the rest period for young persons employed in domestic services. The law prescribes the following:

- A rest period of at least 3 hours between 6 am and 8 pm should be allowed on all days
- An additional 3 hours rest once a week, should be allowed, extending the above mentioned 3 hours continuously
- 2 days leave of absence for 7 continuous days, should be allowed, once in 3 months

The law however does not adequately provide for penalties and sanctions as required by Article 32 of the CRC.

**CHILD LABOUR IN BANGLADESH**

2.3 National Policies and Programmes

In 1990, Bangladesh became a signatory to the UN Convention on the Rights of the Child and the ensuing Summit Declaration and Plan of Action. In the same year, Bangladesh passed the Primary Education Act and, in 1993, it established the compulsory primary education system for children aged 6 years and above. At the same time, the Government adopted the **National Children Policy** and formulated the first **National Plan of Action for Children (1991 - 96)**. The child labour problem was however, first identified in the second National Plan of Action for Children (1997 - 2002).
In collaboration with the World Food Programme (WFP), the Government started the Food for Education Programme in 1993 with the aim to attract poor children and their families to primary education. With the setting-up of the Primary and Mass Education Division in 1992 and the Directorate of Non-Formal Education in 1996, the Government introduced another initiative to tackle the high drop out and low attendance rates in the formal school system.

In March 2001, the Government of Bangladesh ratified ILO Convention No. 182 and that year, the Ministry of Labour and Employment initiated the development of National Policy on Child Labour. The Third National Plan of Action for Children (2004-09) addresses the issue of the worst forms of child labour and provides information on planned interventions for the next five-year period.

The Ministry of Labour and Employment has also implemented a USAID funded project aimed at the Eradication of Hazardous Labour in Bangladesh. Interventions under this project, which covers areas in Dhaka and Chittagong Municipal Corporations, included non-formal education and skills training for working children and micro-credit support to their guardians/parents.

The Government of Bangladesh through the Ministry of Labour and Employment has reviewed all fragmented laws related to child labour with a view to fixing a uniform age for admission to work and to prohibit their engagement in hazardous occupations. According to the Labour Act (2006) the minimum age for admission to work is 14 years and 18 years for hazardous work. Further, light work for children between the ages of 2 – 14 years is defined as non-hazardous work that does not impede education.

Other laws that define the rights and protections due to children are:

- The Children Act (1974) and the Children Rules (1976);
- The Bonded Labour Act, 2006;
The Suppression of Violence against Women and Children Act (2000); and

The Compulsory Primary Education Act, 1990.

**Bangladesh has Ratified**

- UN Convention on the Rights of the Child;
- ILO Convention on the Worst Forms of Child Labour (No. 182);
- ILO Night Work of Young Persons (Industry) Convention, (No.6);
- ILO Night Work of Young Persons (Industry Revised) Convention (No. 90);
- ILO Minimum Age (Trimmers and Stockers) Convention (No.15);
- ILO Minimum Age (Industry Revised) Convention (No. 59);
- ILO Forced Labour Convention (No. 29);
- ILO Abolition of Forced Labour Convention (No.105);

**CHILD LABOUR IN PAKISTAN**

2.4 Government Policies and Programmes

In 1998 the Government of Pakistan constituted a task force on child labour under the chairmanship of the Federal Minister of Labour with the mandate of formulating policies and strategies for the elimination of child and bonded labour in Pakistan and to prepare plans for the implementation of policies and strategies. The National Policy and Plan of Action (NPPA) (May 2000) calls for progressive elimination of child labour; immediate eradication of the worst forms of child labour; a monitoring system to implement the National Plan of Action; prevention of child labour by offering alternative education, and ensuring primary education and skills training to the target children.
The NPPA for the elimination of child labour focuses on awareness raising; withdrawal of children engaged in the worst forms of child labour and their rehabilitation through education and vocational training; community mobilization; situation analysis and development of a database on child labour; law enforcement; capacity building of the relevant ministries/departments; enhancing education and skills training opportunities for children; empowerment of poor families, and promoting coordination with functional and social partners.

Major strategies include enhancement of educational opportunities for working children through the launching of literacy programmes for school drop outs and introducing apprenticeship, vocational and skills development programmes; establishment of special resource centres in the Labour Departments to act as focal points and to monitor and coordinate the activities, and assist enforcement agencies in withdrawing and rehabilitating children working in hazardous and exploitative situations. The Government of Pakistan has established a fund for the education of working children and rehabilitation of freed bonded labour with an initial endowment of Pakistan Rupee 100 million (approximately equivalent to US$ 2 million).

The Government of Pakistan on 31 December 2003, released its Poverty Reduction Strategy Paper (PRSP), titled ‘Accelerating economic growth and reducing poverty: The road ahead’. The PRSP gives due consideration to the issue of child labour in the planning of its targets. Clearly outlines its commitment on child labour issues and states, “Although the government is committed to eliminate child labour as reflected in the National Policy and Plan of Action to Combat Child Labour, it is pursuing a policy of gradual elimination of all forms of child labour and immediate elimination of the hazardous and exploitative forms of child labour under IPEC. To achieve this objective, certain specified target programmes have been initiated.

The Ministry of Education launched the National Plan of Action for Education for All on 3rd April 2003 for achieving universal primary education by 2015. Gender disparities are being narrowed through mixed Primary schools, compensatory programmes, and appointment of female teachers. According to the Education for All goals and targets, by 2015, all children, with special
emphasis on girls and children in difficult circumstances, should have access to completely free education. Secondly, it aims at eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015. In this regard, the Education Sector Reforms, 2001/05, also aims to address the needs of child labourers.

The National Commission for Child Welfare and Development (NCCWD) has initiated a national pilot project for the rehabilitation of children involved in labour. The project, called the National Project on Rehabilitation of Child Labour, is aimed at the withdrawal of children from hazardous employment, the rehabilitation of children through formal education, and the development of linkages between community health services and recreations packages. Under the project, Pakistan Bait-ul-Mal has now set up more than 80 centres to rehabilitate children working in hazardous occupations by imparting non-formal education (NFE). Children are given a daily stipend of PRs 10 as an incentive, in addition to uniforms, shoes, other clothing and means during school hours. Parents are paid PRs. 4,100 per year.

Legislation

Article 11 (1) of the Constitution of Pakistan forbids slavery and states that no law shall permit or facilitate its introduction into Pakistan in any form. Article 11(2) prohibits all forms of forced labour and traffic in human beings, Article 11(3) prohibits employment of children below the age of 14 years in any factory or mine or any other hazardous employment.

Major national legislative developments regarding Child Labour -

The Employment of Children Act 1991:

Section 2 of the Act defines a ‘child’ to mean any person who has not completed his fourteenth year. Section 3 of the Act bans employment of children under -14 in occupations connected with transport by railways, cinder picking, cleaning of an ash pit or building operations in railway premises, catering at a railway station or on a train, construction of a railway station, working close to or between railway lines, working in a port area, and manufacture or sale of
Part II - Prohibition of Employment of Children in Certain occupations and Processes

Section 3. Prohibition of Employment: No child shall be employed or permitted to work in any of the occupations set forth in Part I of the Schedule or in any workshop wherein any of the processes set forth in Part II of that Schedule is carried on.

Provided that nothing in this section shall apply to any establishment wherein such process is carried on by the occupier with the help of his family or to any school established, assisted or recognized by Government.

Section 4. Amendment of Schedule: The Federal Government, may by notification in the official Gazette, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly three months after the date of the notification.

Section 5. National Committee on the Rights of the Child:

(1) The Federal Government may, by notification in the official Gazette, constitute a National Committee to be called the National Committee on the “Rights of the Child”, to perform the functions visualized in Article 43 of the US Convention on the Rights of the Child, and to advise the Federal Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and 10 other experts of high moral standing and recognized competence.
PART III - Regulation of Conditions or Work of Children

Section 6. Application of Part: The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

Section 7. Hours and Period of Work:

(1) No child or adolescent shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has an interval of at least one hour for rest.

(3) The period of work of a child shall be so arranged that inclusive of the interval for rest, under subsection (2), it shall not exceed seven hours, including the time spent in waiting for work on any day.

(4) No child shall be emitted or required to work between 7.00 p.m. to 8.00 a.m.

(5) No child shall be required or permitted to work over-time.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

PART IV - MISCELLANEOUS

Section 14. Penalties:

(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to twenty thousand rupees or with both.
(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever,

(a) fails to give notice as required by section 9; or

(b) fails to maintain a register as required by section 11 or makes any false entry in any such register, or

(c) fails to display a notice; or

(d) fails to comply with or contravenes any provisions of this Act or the rules made there under shall be punishable with simple imprisonment which may extend to one month or with a fine which may extend to ten thousand rupees or with both.

2.5 Child Labour in China

China’s child labour is a huge problem, and there is clear evidence that child labor is increasing in China. Although there is no official figure on the number of children working in China, it is estimated by many that of the 10 million children out of school, over 5 million are working in factories. There are some who even consider this a conservative estimate. It was reported in Sichuan, China’s most populated province, that 85% of children who drop out of school are working elsewhere. Even in some less populated rural provinces, over 20% of the work force is made up of children. Also, in the last few years, the rate of children kidnapped has increased rapidly. It is believed that the children kidnapped are sold off to factories to work. For example, in 1994, about 48 Chinese brick-shop-workers kidnapped over 100 children. It is known that forty of those children were forced to work 10 hours a day, but with no wage whatsoever. China’s child labour cannot be overlooked.

The recent experience of China is also interesting. China experienced a rise in child labour from the mid-1990s, to the point where the estimates of child
labour ranged from 10 to 20 million for 2005. Most analysts agree that the partial dismantling of the once free and universal socialist school education system has been critical. Thus, the decline in public educational spending and the increase in school tuition fees have been important proximate causes of the increase in child labour. There have been many cited instances of parents who cannot any more afford to send their children to school without some additional income from their paid labour. It has also been noted that the system of examinations and progression through school also creates disincentives against continuation for children from poor families who perform poorly in any one year.

In addition, rapid rural-urban migration and lack of social protection to migrants have been important. It has been found in China, as in India, that, the children of migrant workers are particularly vulnerable to becoming child labourers, not least because they do not have access to the urban public education system on equal terms.

The Chinese government has begun to act against the rise in child labour, particularly after some highly publicised cases of physical hazards and even death of working children in factories. There were already laws that criminalised child labour in potentially hazardous situations or in bonded form. A new law makes the hiring of a minor punishable by a fine of 5000 Yuan per worker, cumulative over the months of employment. There is some evidence that this law is actually being implemented, although with regional differences, and this has already created strong disincentives against the hiring of child labour.

China strengthens enforcement of its legislation against child labour, legal experts said on the eve of the World Day Against Child Labour.

Director of the Beijing Juvenile Legal Aid and Research Center Tong Lihua said the central government’s determination to wipe out child labour is “clear and beyond doubt”.

Tong added: “We have excellent legislation on child labour. The Regulations on Prohibition of Child Labour, adopted by the State Council in 2002, is by far the best and most practical law dealing with children’s rights and interests in China”. 

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The regulation stipulates that employers will be fined 5,000 yuan ($720) for every child labourer they hire for one month. If they continue to do so, authorities will rescind their licences.

Illegal use of child labour “does exist” in the country - a fact that cannot be denied.

In the slavery scandal in Shanxi province last year, for example, some unregistered brick kilns were discovered using child laborers.

Local media reported that hundreds of children from Liangshan, Sichuan province, were swindled into working in Guangdong province.

“Dropout children are easy targets of child labour”, she said.

“Under the current nine-year compulsory education system, some junior high school graduates are younger than 16 and are easy to coerce into becoming child labourers if they choose to work rather than to further their education”.

Zhang provided statistics showing that from 2001 to 2005, local authorities in Zhejiang province cracked down on 2,263 cases of child labour, involving 2,318 child labourers. The children’s employers were fined 21.6 million yuan in total. “Although the nation has achieved substantial economic development, there are still many poor families in remote rural areas,” Tong said: “Any poverty is one of the major causes of child labour. He said many poor parents want their children to make money to support the family. Laws, however, prohibit employment of children younger than 16.

“The governments needs to improve the enforcement of existing laws”, he said. “They should especially crack down harder on unregistered, small, private workshops and plants, which are more likely to employ children to reduce production costs”. Song Wenzhen, an official with the National Committee on Women and Children under the State Council, said the government had made great efforts to ban child labour in recent years. She also said the National Program of Action for Child Development (2001-10) released by the State
Council set detailed standards protecting children’s rights and ensuring their healthy development.

2.6 Child Labour in Philippines

The Philippines Republic Act No. 7658 of 1993 prohibits the employment of children below 15 years of age in public and private undertakings. This law provides for the rules in employment of children below 15 years of age. Further, Republic Act No. 7610 of 1992 is an Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violations and for Other Purposes. This Act promulgated in 1992 obliges the State to provide special protection to children from a forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development. It also provides sanctions for their commission and directs that programs be carried out to prevent and deter situations of child abuse, exploitation and discrimination.

The Philippines labour code mandates that both adults and children who are employed as "househelpers" must be paid a minimum wage. The Philippines Labour Code further states that wages shall be paid directly to the “househelper” to whom they are due at least once a month and no deductions shall be made unless prior authorization had been given. The minimum wage shall be in addition to suitable and sanitary lodging, adequate food and medical attendance. Though the "househelper's" clothes are a matter subject to stipulation, any contract for household service shall be void if, thereby, the “househelper” cannot afford to acquire suitable clothing. Further, the employer must also review the employment contracts every three years for the purpose of improving the terms of the conditions. The Philippines labour law also provides that if the period of household service is fixed, it may not be terminated before the expiration of the term, except for a just cause. If termination takes place, the domestic worker is paid the compensation already earned plus that for 15 days by way of indemnity.

The Republic Act of No. 7655, which sets out to increase the minimum wage of house helpers, not only increases minimum wage of domestic house helpers but makes social security available to them. House helpers can now be
members of the Social Security system and avail of its benefits. The law commonly known as the Woman and Child Domestic Labour Law by presidential decree affords the protection and promotion of equality in employment and ensures equal work opportunities regardless of sex, race or creed. These include health and safety benefits for women employees. To Provide Penalties for Violation and Other Purposes (Republic Act No. 679) lays down rules regarding the employment of children and the employment of women. The Act also provides for non-formal education for working children aimed at promoting the intellectual, moral and vocational efficiency of working children which is deemed effective under the given conditions.

2.7 Child Labour in Malaysia

The Child Labour law is incorporated in Malaysia by the Children and Young Persons (Employment) Act, 1966.

The Act defines a child as any person who has not completed his fourteenth year of age or of such age as the Govt. may by notification in the Official Gazette.

The Act defines an young person who not being a child, has not completed his sixteenth year of age.

Employment in which children and young persons may be engaged –

I. The Act specifies that a child or young person shall not be, or not be required or permitted to be, engaged in any employment other than those specified in this section.

II. A child may be engaged in any of the following employments:

(a) employment involving light work suitable to his capacity in any undertaking carried on by his family;

(b) employment in any public entertainment, in accordance with the terms and conditions of a licence granted in that behalf under this Act;
(c) employment requiring him to perform work approved or sponsored by the Federal Government or the Government of any State and carried on in any school, training institution or training vessel; and

(d) employment as an apprentice under a written apprenticeship contract approved by the Director General with whom a copy of such contract has been filed.

III. A young person may be engaged in any of the following employments:

(a) any employment mentioned in subsection (2); and in relation to paragraph (a) of that subsection any employment suitable to his capacity (whether or not the undertaking is carried on by his family);

(b) employment as a domestic servant;

(c) employment in any office, shop (including hotels, bars, restaurants and stalls), godown, factory, workshop, store, boarding house, theatre, cinema, club or association;

(d) employment in an industrial undertaking suitable to his capacity; and

(e) employment on any vessel under the personal charge of his parent or guardian.

Provided that no female young person may be engaged in any employment in hotels, bars, restaurants, boarding houses or clubs unless such establishment are under the management or control of her parent or guardian:

Provided further that a female young person may be engaged in any employment in a club not managed by her parent or guardian with the approval of the Director General.

IV. The Minister for Labour, may, if he is satisfied that any employment (not mentioned in subsection (2) or subsection (3) is not dangerous to life, limb, health or morals, by order declare such employment to be an employment in
which a child or young person may be, or permitted to be, engaged; and the
Minister may in such order impose such conditions as he deems fit and he may
at any time revoke or vary the order or may withdraw or alter such conditions.

V. No child or young person shall be, or be required or permitted to be,
engaged in any employment contrary to the provisions of the Factories and
Machinery Act 1967 [Act 139] or the Electricity Act 1949 [Act 116] or in any
employment requiring him to work underground.78

The Labour Minister may prohibit any child or young person from engaging or
being engaged in any employment

Notwithstanding the foregoing provisions, the Minister may, in any
particular case, by order prohibit any child or young person from engaging or
from being engaged in any of the employments mentioned in section 2 if he is
satisfied that having regard to the circumstances such employment would be
detrimental to the interests of the child or young person, as the case may be.

Number of Days of Work

No child or young person engaged in any employment shall in any period
of seven consecutive days be required or permitted to work for more than six
days.

Hours of work of children

(1) No child engaged in any employment shall be required or permitted –

(a) to work between the hours of 8 o’clock in the evening and 7 o’
    clock in the morning;

(b) to work for more than three consecutive hours without a period of
    rest of at least thirty minutes;

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78 The Electricity Act 1949 [Act 116] has since been repealed by the Electricity Supply Act 1990
[Act 447].
(c) to work for more than six hours in a day or, if the child is attending school, for a period which together with the time he spends attending school, exceeds seven hours; or

(d) to commence work on any day without having had a period of not less than fourteen consecutive hours free from work.

(2) Paragraph (1) (a) shall not apply to any child engaged in employment in any public entertainment.

**Hours of Work of Young Persons**

6. (1) No young person engaged in any employment shall be required or permitted-

   (a) to work between the hours of 8 o'clock in the evening and 6 o'clock in the morning;

   (b) to work for more than four consecutive hours without a period of rest of at least thirty minutes;

   (c) to work for more than seven hours in anyone day or, if the young person is attending school, for a period which together with the time he spends attending school, exceeds eight hours:

   Provided that if the young person is an apprentice under paragraph 2(2)(d), the period of work in anyone day shall not exceed eight hours; or

   (d) to commence work on any day without having had a period of not less than twelve consecutive hours free from work.

(2) Paragraph (1) (a) shall not apply to any young person engaged in employment in an agricultural undertaking or any employment in a public entertainment or on any vessel under paragraph 2(3)(e).

The Board shall, after holding the inquiry, report to the Minister its findings and recommendations; and the Minister may, after considering the report
of the Board, make an order prescribing the minimum rates of wages to be paid to children or young persons or to both, employed in the class of work in the area aforesaid.

Upon publication of such order, it shall not be lawful for any employer to pay any child or young person to whom the order applies, wages below the minimum rates specified in the order.

**Prosecutions and Right of audience**

(1) Proceedings for offences against this Act or against any order or regulation made there under shall not be instituted or conducted except by or on behalf of the Public Prosecutor or by the Director General.

(2) The Director General of Labour shall have the right to appear and be heard in any proceedings under this Act, and such right shall include the right to appear and represent a child or young person in any such proceedings.

**Certificate of Medical Officer as to age**

Where, in any proceeding under this Act, a person is alleged to be a child or young person, the Court may accept a certificate of a Government Medical Officer to the effect that, in his opinion, such person is or is not a child or young person.

Any person contravening any of the provisions of this Act or of any regulations or order made there under or who being the parent or guardian of a child or young person knowingly acquiesces in any such contravention in respect of such child or young person shall be guilty of an offence and shall be liable on conviction to imprisonment for a term **not exceeding six months** or to a fine **not exceeding two thousand ringgit** or to both and, in the case of a **second or subsequent offence**, shall be liable on conviction to imprisonment for a term **not exceeding two years** or to a fine not exceeding **three thousand ringgit** or to both.
2.8 Child Labour in Nepal

The Constitution of Nepal, 1990, seeks to protect the interests of children by conferring on them certain fundamental rights and imposing for their benefit certain ‘directive principles and policies of the State’. The State shall make necessary arrangements to safeguard the rights and interests of children, ensure that they are not exploited, and make gradual arrangements for free education.\(^79\)

Apart from the Constitution, the following four laws contain important provisions for the protection and advancement of the interests of children and child labourers:

The Nepalese Act to Provide for Safeguarding the Interests of Children, 1992 defines a child as a person below the age of 16 years. Although it prohibits a child under the age of 14 to work, it allows a child between the ages 14-16 to work under certain conditions. The only applicable restrictions are those that prohibit a child from working from 6:00 p.m, to 6:00 am; in hazardous work and against his wish. As far as the child’s duties are concerned, Section 22 provides that, “A child has the duty to keep himself or herself neat and to take in housework appropriate to his or her age.

The Children Labour Code establishes the minimum age for employment at 15 years in compliance with ILO Minimum Age for Employment Convention. Children under age 15 may work in theatrical productions with the proper legal authorization. Fifteen year olds are allowed to do light work if they have completed compulsory education and if the work will not affect their health, development or attendance in education or training. Children ages 16 to 18 can work with the permission of their parents. Children under the age of 18 are prohibited from working at night between the hours of 10 p.m, and a.m. (with the exception of a family business), underground in nightclubs, or similar establishment in which alcohol is consumed, or in activities that endanger their health, safety or morals.

The Child Labour (Prohibition and Regulation) Act, 2000, followed Nepal’s ratification of the ILO Minimum Age Convention (No. 138), and has made important amendments in the Labour Act, 1992. The Child Labour Act enlists specific occupations as hazardous work and prohibits the use of children aged 14 – 16 and provides that no child shall be engaged to work during a period from 6 p.m. to 6 a.m. Further, it prohibits the engagement of children below 14 in any kind of employment.

Kamaiya Labour Prohibition Act, 2001, Prohibits bonded labour, frees bonded labourers and extinguishes debt flowing from such arrangements. As a result of the Kamaiya Act, many bonded girls in domestic servitude have been withdrawn and reintegrated with their families.

Finally, the Self-Governance Act, 1997, makes important provisions for decentralised action for children and against child labour.

2.9 An overview of the Child Labour Laws in the Selected Asian Countries

The Srilankan Government is a signatory to the ILO Minimum age for Employment Convention (No. 138) and also UN convention on the Rights of the Child, 1989. In 1996, a presidential Task force on the prevention and control of child abuse was setup. The National Child Protection Authority operates in four main areas: protection, advocacy, rehabilitation and legal reform.

In 2006, the Government presented its Ten year Development Plan known as the Mahinda Chinthanaya – thereby has given focus to the plantation sector which is a prime sending area for child domestic workers. In 2007, A youth employment policy and National Action Plan for eliminating child labour by placing great emphasis on the issue of access to quality education. It is interesting to note that Draft constitution (August 2000) of Srilanka which emphasis free education between ages of 5 and 14 and not to be employed in any hazardous activity and also wherein a child is defined as a person under the age of 18 years.

The National Policy of Bangladesh which also ratified the ILO’s worst from of child labour convention (No. 182). It is the policy found in the Labour
Act, 2006, the minimum age for admission to non-hazardous work is 14 years and 18 years for hazardous work. The Act of Compulsory Primary Education was passed in the years 1990 itself.


The Philippines Republic Act, 1993 Prohibits the employment of Children below 15 years of age in public and private under takings. The woman and Child Domestic Labour Law affords equality in employment and wages.

The Malaysian Child Labour Law is incorporated in The children and young persons Act, 1966. The term child means a person who is under 14 years and the child may be engaged in specified work but which may be prohibited by the Labour Minsiter for reasons.

The Napalese Act, 1992 defines a child who is under 16 years. The Child Labour (Prohibition and Regulation) Act, 2000 has made several amendments to the earlier Act of 1992 and it enlists specified occupations as hazardous and prohibits children between 14 – 16.

The Indian Child Labour Act of 1986 has more than the important features found in the above child labour laws except the definition of child as a person only under 14 years.