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Child Labour in the Fast Fashion Industry, with a Focus on India

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Introduction- Child labour can be found at all stages of the production process in the fashion industry. It can be found during the production of cotton seeds in Benin, harvesting in Uzbekistan, yarn spinning in India, right through to the different phases of putting garments together in factories across Bangladesh.[1] The problem of child labour is rampantly increasing in the fashion industry since a large part of the supply chain requires low-skilled cheap labour.

Child labour is often used by industries because they are seen as obedient workers who can easily be monitored and controlled. While there exist Trade Unions and other formal, if not sophisticated, regulatory mechanisms which allow adult labourers to have some bargaining power, there is no similar system available for children. Further, they are easier to employ and further exploit because they lack the understanding of what they may be entitled to. Employers get away with it because the fashion supply chain is hugely complex and it is hard for companies to control every stage of production. That makes it possible to employ children without big brands and consumers ever finding out.

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CHILDLABOURINTHEFASTFASHIONINDUSTRYWITHAFOCUSONINDIA

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Child Labour in the Fast Fashion Industry, with a Focus on India

Naman Khatwani

I. Introduction

Child labour can be found at all stages of the production process in the fashion industry. It can be found during the production of cotton seeds in Benin, harvesting in Uzbekistan, yarn spinning in India, right through to the different phases of putting garments together in factories across Bangladesh.[1] The problem of child labour is rampantly increasing in the fashion industry since a large part of the supply chain requires low-skilled cheap labour.

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Child labour is often explained to be a by-product of impoverishment. The most common argument that expounds on the widespread nature of child labour is that various families are dependent upon children to earn sustenance. Child labour is hence justified as a necessary evil with the blame centralized on the abject poverty in these societies.

In this paper, I shall first analyze why there exists such extensive amounts of child labour especially in the textile sector. This will lead me to focus on various social reasons to employ children in the industry which include the social acceptance, regulatory mechanisms and the logistical convenience. I shall then explore the demographics of the industry and their relevance in the employment of child labour. This will be viewed from the standpoint of the employees and their parents who often promote their children into work. I shall lastly focus on the inefficient regulations in place concerning child labour and how an effective system can be developed. This part shall also look into the reason why governments may not be inclined towards curbing child labour, and what regulatory steps can be taken.

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[1] https://labs.theguardian.com/unicef-child-labour/ Last accessed on August 23, 2022.

II. Child Labour in the Textile Sector

The cotton industry employs children whose primary job is to transfer pollen from one plant to another. The children are expected to work throughout the day, and because they are in close contact with crops they are exposed to pesticides and insecticides. Further, children are expected to harvest the delicate crop, aside from sowing the cotton in the spring and weeding it in the following months.[2]

The next process in the production chain is fabric spinning. In yard and spinning mills as well, child labour is extensively found. Reports suggest that a large majority of the mills employees in India start when they are under 18.[3] In the next stage, where clothes are put together, Children are again found as the primary employees. This 'Cut-make-trim' stage is when clothes are sewed together or accessorized and so on. Employers justifying hiring children at these stages by referring to it as vocational training.

However, industries and factories are not the only place where child labour is found. Even at small workshops and home sites, children are found performing delicate tasks such as embroidering, making pleats or sequinning.[4] At these stages, children are generally paid on a piece-based system where every cloth worked on is paid for individually. Hence, they are expected to work hours on a single garment to earn a marginal amount.

Child Labour requires a special response system because children are often favoured at various stages of the production process. Some tasks such as cotton picking are considered to be better suited to children than adults owing to their small fingers which do not damage the crop. In a survey conducted in Andhra Pradesh, it was found that children were paid Rs. 20 per day as compared to Rs. 10 per day paid to

[2] Secretary of Labour, 2013 Findings on the Worst Forms of Child Labour available at https://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf Last accessed on 10th September, 2022 (cached).

[3] Centre for Research on Multinational Corporations, Flawed Fabrics The abuse of girls and women workers in the South Indian textile industry available at http://www.indianet.nl/pdf/FlawedFabrics.pdf Last accessed on 13th September, 2022.

[4] Ibid.

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adults for working in the cotton fields.[5] This anomaly where children are preferred as workers in several sectors is special to the textile sector because of the tasks involved and must be dealt with a targeted mechanism.

III. Reasons for Child Labour on the Ground-Level

India's large population of nearly 1.4 billion individuals consists 40% of children.[6] Further, over a fifth of this population reside below the poverty line.[7] This indicates that a large amount of people in India do not have access to basic facilities. They live with the fear of ensuring their subsistence for the day. This livelihood with a lack of means of subsistence leads to families ensuring every member provides help in obtaining sustenance in everyday life.

The promulgation of child labour starts from the lack of financial capabilities of a family to maintain themselves. Contractors then use this to exploit families and induce children to work at factories, where they sometimes pay a meagre sum to the family for taking the child. Moreover, the child is rarely paid any substantial wages that can afford meals or is just paid in kind with one or two meals a day.

Empirically, the primary reason for the existence and the increasing amount of child labour is dedicated to poverty. In a research conducted on child labour in the handicraft industry in Kashmir, the simplest conclusion found was that parents prefer to send their children to work over school.[8] Most economic models suggest that children are sent to work owing to low income families.[9] Child labour is attributed to the large sizes of family in India and linked with the demand for more income. This demand is sought to be supplied by putting every child to work.

Studies suggest that another factor attributable to child labour is the migration of poor families to urban cities in search for employment. Often, parents move to urban areas envisaging better opportunities to work and earn, but this demand is scarcely met. This leads to parents then also looking for employment for their children, since they cannot even leave them with their families around the village anymore.[10]

IV. State Endorsed Child Labour

The reasons of Poverty discussed in the previous section, if were seen in exclusivity, common sense would suggest that the eradication of poverty would lead to an abolishment of child labour. Hence, it would also dictate that an increase in the GDP of the Country would be directly proportional to the decrease in child Labour. Despite this, a large majority of children aged 5–14 work in the agriculture and service industry.[11]

It becomes essential to analyse other factors that lead to child labour at this juncture. Weiner points out that accepted arguments of child labour existing due to poverty and lack of funds by the Government to work on it lack conviction. He argues that child labour is not heavily opposed by the Government because it is a major part of their industrial strategy.[12] An argument that suggests that the Government promotes child labour may at first appear to be a liberal conspiracy theory. Especially with statutes like the Child Labour (Prohibition and Regulation) Act, 1986 ("CLPRA") and making primary education compulsory, such an argument does not seem to have credence superficially.

Credibility in such an argument can be seen through an analysis of the Government expenditure on enforcement of the CLPRA and the Right to Education Act, 2009 ("RTE"). India's expenditure on education constitutes a small fraction of its GDP which has been continually going down despite not a large enough increase in literacy. Not only has India decreased the amount of expenditure in comparison to other sectors despite the adoption of the RTE, this expenditure is much less as compared to other countries such as United Kingdom and Argentina.[13] Even Afghanistan and Nepal in the sub-continent have a higher percentage of their GDP dedicated to education than India. This however, only proves that the government is not focusing on education.

To substantiate the above claim further, a logical analysis must be drawn to understand how putting children to work may be a part of government strategy and beneficial in some way. It is evident from recent policies in India that Foreign Direct Investment is being encouraged. Recently, India even overcame China in the amount of Foreign Investment inflows into the country, with its highest ever amount of FDI in a calendar year.[14]

[5] Pramila H. Bhargava, The Elimination of Child Labour, 2003.

[6] Childline India Foundation Annual Report 2020-2021. Last accessed on 11th September, 2022.

[7] https://www.prsindia.org/theprsblog/poverty-estimation-india Last accessed on 12th September, 2022.

[8] B.A Bhat and T.A Rather, *Child labour in the handicrafts home industry in Kashmir: A Sociological Study*, 4 International NGO Journal 391, (2009).

[9] Lana Osment, *Child Labour, the effect on child, cause and remedies to the evolving menace,* University of Lund, Sweden, (2014).

[10] S.K Yadav and G. Sengupta, Environmental and Occupational Health Problems of Child Labour: Some Issues and Challenges for Future, 28(2) J Hum Ecol 143, (2009).

[11] Bureau of International Labor Affairs. Child Labor and Forced Labor Reports in India, 2014.

[12] Weiner, Child Labour in Developing Countries: The Indian Case, 2 Int. J. Children's Rts. 121, (1994).

[13] https://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS?end=2017&locations=IN-AR-LK-GB&start=1987 Last Accessed on 27th August, 2022.

[14] https://economictimes.indiatimes.com/news/economy/indicators/india-pips-china-in-fdi-inflows-for-the-first-time-in-20-years/articleshow/67281263.cms Last accessed on 27th August, 2022.

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The processes in the textile sector have already been analysed where it is evident that a large amount of low-skilled labour is required. This means that any large manufacturing company must look for methods in which they can acquire the services of these low-skilled labour forces at very low wages. Hence, if a country provides opportunities to corporations to hire low-skilled labour which is often child labour at very low wages, the investment and the number of contracts that the country can incite increases drastically. Similarly, the other large nation with focus on FDI being China also has a large amount of child labour.[15]

The fact that the Government's focus on securing employment over regulating child labour can even be seen in the orders of the Courts. It is often evident that the judiciary is deferential to the Government policy and has a larger chance of resorting to their strategic planning.[16] Recent orders of the Supreme Court regarding employment in the firecracker industry state:

> *"We cannot give money or jobs or support people who will lose their jobs if we shut down firecrackers manufacturing units... We do not want to generate unemployment. … Such a revenue to the State as well as employment to large number of workers on which five lakh families sustain cannot be put in jeopardy by imposing a total ban."*[17]

It is evident that even the Court realizes that often the focus of the state is not just the morality of something, but also the economics of it. The prevalence of child labour in the firecracker industry is well-known and the Supreme Court's stance cannot be justified by ignorance.[18]

Hence, credibility to the argument by Weiner can be assigned with regards to the focus of the Government to encourage and incentivize multi-national companies to invest in India. This is done by offering cheap labour and not actively prohibiting children to work in these factories. Hence, the lack of active regulation is equivalent to an endorsement of child labour in India.

V. Regulating Child Labour

The already unpliable task of regulating child labour becomes even more arduous if the Government's strategy revolves around it. Hence, the primary objective in drafting a policy would not be to attempt to abolish since the truths of poverty will still justify child labour. Rather, regulation of child labour in a sophisticated manner where the Government takes active steps in ensuring that children who are enticed by factories have safe working conditions and receive fair wages.

The CLRPA contains various provisions which seek to regulate the amount of time a child works in a day and a week. However, what it fails to implement is a sophisticated system that can ensure that children are adequately represented in work environments. The legislation only lays down rights of the children and duties of the employer without prescribing any way to efficiently monitor or exercise the fulfilment of these duties. A huge problem of child labour is that children are not capable of entering into negotiations and lack any bargaining power against the employer. They cannot form Trade unions or enter into any sort of collective bargaining without outside support.

The nature of child labour is such that it is often forced. While valid consent of a child is anyway not in question, their guardians who often send them to work do that under duress. As analysed, the reason for child labour stems from impoverishment foremost, and hence any decision taken then is taken under economic duress. Hence, child labour is seen at the ground level as a relief from impoverishment rather than an issue. This entails that parents send their children into labour and often gratuitous to the employers for even employing them. This sense of gratuity ensues that even the parents cannot unionize against employers and gain bargaining power.

Hence, with the lack of any support at ground level to ensure safe working conditions for children, the case remains bleak. The employer would find it easier to bribe an official[19] than keep up with the extensive regulations. There needs to be a regulatory agency that is able to mitigate the vast difference in the bargaining power between the two parties. Hence, the regulatory mechanism must be able to balance children's rights and the employer's production costs.

VI. Accountability in the Textile Sector

The propagation of child labour in the textile sector is because of the massive number of multi-national companies that are looking for ways to find cheap labour. These companies invest in developing and under-developed countries where their cost of production is very low to ensure a high margin of profit can be maintained. The method of acquiring services in these regions is often through indirect contracts and multiple levels of sub-contracting. In such a scenario, it becomes even harder to regulate child labour from the top tier.

[15] https://www.ilo.org/beijing/areas-of-work/child-labour/lang--en/index.htm Last Accessed on 27th August, 2022.

[16] Nanhu v. Delhi Administration 1980 Supp SCC 613; All Delhi Cycle Rickshaw Operators Union v. MCD (1987) 1 SCC 371.

[17] https://www.thehindu.com/news/national/we-cannot-kill-jobs-in-cracker-industry-says-supreme-court/article26507955.ece Last accessed on 12th September, 2022.

[18] National Commission for Protection of Child Rights, Report on the visit of Dr. Yogesh Dube to Review the Child Labour situation in Fire Crackers & Match Industries in Sivakasi, Tamil Nadu, 2013.

[19] Mihir Sharma, Restart: Last Chance for the Indian Economy 308-313 (Random House: 2015).

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Brands like H&M and Zara outsource their production facilities to various South-Asian countries. The nature of the textile sector is such that it is a multi-faceted process. From harvesting cotton to spinning mills to the cut-make-trim stage followed by accessorizing, dying, packaging and delivered for supply across the world, the large amount of processes require different facilities and organizations involved.[20] These companies hence engage in various levels of sub-contracting to get the job done.

There have been recent news reports about both of these brands hiring the most amount of child labour[21] and having poor labour conditions in their factories.[22] The brands however, either deny the existence of child labour[23] in their factories or attempt to justify it by not being accountable for the sub-contractors. This denial of accountability due to the remoteness of the contact between the brand and the lowermost stage of the production process is a large part of the problem.

Lotte Schuurman at the Fair Wear Foundation states "*Brands can start off by creating a supply register. Fashion brands normally have 200 or more suppliers. You should start by knowing who your manufacturers are and visiting them*."[24] Schhurman believes that brand representatives must be accountable for the factories that are being sub-contracted. This is in consonance with the Contract Labour (Regulation And Abolition) Act, 1970 where the principal employer is responsible for wages of the labour employed by a sub-contractor.

VII. Analysis

It is evident that child labour is the result of the vicious cycle of poverty where kids are seen as financial assets by their parents. While, abolishing poverty itself is an utopian goal, other mechanisms can be used to hold members of the community accountable for exploitation of such children. The implementation of the Right to Education Act and the Mid-Day Meal system may be argued by some to be a major step in the regulation of child labour. However, the manner of execution of these schemes is highly debated and can arguably be said to not have a large impact.

In light of the most obvious mechanism to curb child labour failing, other regulatory mechanisms have to be analysed to protect children who are subject to such exploitation. The first of these is a more sophisticated regulatory mechanism which ensures that children are adequately represented against their employers. This system needs to be designed in a way where it does not deal with absolutes and extremities to avoid skirting of the regulation. Rather a balance mechanism where regulatory officers can balance the rights of the children while not imposing extraneous obligations on the employer, though not ideal, may be a practical solution.

The application of the Contract Labour Act must be extended in such a manner that even multi-national companies can be held accountable for illegal acts done within India. This will include the hiring of child labour and maintain poor work conditions by the sub-contractors within India. Such a model has large support and may work well since MNCs do have the funds to ensure accountability to the lower-most tier.[25]

The other mechanism is a method that may find even more credibility in India. India already has mechanisms of holding corporations to ethics. With the advent of the concept of Corporate Social Responsibility ("CSR") to ensure that corporations do well for the citizens, an extension of the same could be to hold them accountable for their actions as well. Most corporations use CSR to just advertise themselves across the board as an ethical brand, and hence a better accountability model needs to be suggested.

Corporations try to offset their carbon footprint by outsourcing their carbon emission productions to nations where labour is cheaper. Similarly, corporations try and claim that their products are more eco-friendly than they actually might be by smarter branding. For example, often companies would use tags produced out of recycled plastic, and use that to advertise their sustainability without alluding to the child labour aspects of production. Hence, stricter accountability needs to be enforced for corporations attempting to claim benefits for possible ethical choices.

The author also personally advocates for consumers being more aware of their fashion choices. The author has recused himself from shopping at any brand that purports child labour. Limiting fast fashion choices by simply just thrifting or using outfits for longer will go a long way in this ever-growing market where the supply keeps trying to match an unnatural demand.

[20] http://globalmarch.org/wp-content/uploads/2017/09/Brief-Guide-GarmentManufacturingChildLabour-in-GarmentSector-in-India.pdf Last accessed on 10th September, 2022.

[21] http://www.facing-finance.org/en/database/cases/violation-of-labour-rights-by-hm-in-uzbekistan-bangladesh-and-cambodia/ Last accessed on 28th August, 2022.

[22] https://www.independent.co.uk/life-style/fashion/zara-labourers-plea-for-help-fast-fashion-business-model-h-m-primark-a8040601.html Last accessed on 28th August, 2022.

[23] http://humanrightsinbusiness.eu/portfolio/a-piece-of-work-hms-take-on-child-labour-in-myanmar/ Last accessed on 28th August, 2022.

[24] Supra Note 1.

[25] Graafland, J. J., Sourcing ethics in the textile sector: the case of C&A. Business Ethics: A European Review, 11, (2002).

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