

# Leisure for Whom?: Some Ethical and Legal Questions

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## ABSTRACT

In the decade of 1970s, new theories were propounded to reflect upon the global changes occurring in the labour scenario such as the 'New International Division of Labour' (NIDL) and 'feminization of labour force'. The multinational corporations transferred large portions of their more labour-intensive processes to third world countries for cheap labour. The majority of new workers are women. As per the statistics of the International Labour Organization (ILO), global employment almost doubled between 1965 and 1995. Most of this expansion took place in developing countries and more than half of these new recruits are women. It is often accused, rightly so, that the globalization is gendered. The globalization has drawn more women worldwide into the labour force, but women feature disproportionately among the most exploited workers. This has led to 'the feminization of poverty and exploitation'. Often it is noticed that women are grossly under-represented in global economic decision making bodies and over represented among the victims of globalization. On the contrary, women contribute substantially more than men in creation of wealth globally, specifically if the unwaged component of the contribution by women is taken into account. The exploitation of female labour force is so acute that in the most developed and civilized economy of the modern world, USA, the poor are denied fulfillment of the most basic needs at their work places what to speak of leisure. The companies even do not allow poor women workers in USA to go to urinals during work hours. Therefore, they have to wear diapers when they go to work so that they can ease themselves like infants.<sup>1</sup> Hence this paper raises some fundamental ethical and legal questions about leisure patterns, emphasizing that all the leisure in the world seems to be meant for the affluent males only.

**KEYWORDS :** *Fiminisation, Leisure, Exploitation*

Leisure is considered to be good as long as it helps human beings to work better, more and more. Work is the product of man's effort to meet his bio-cultural imperatives whereas leisure is more of a cultural product. Leisure is the complimentary dimension of work. In fact, the creative and expressive dimension of work can be accomplished only because leisure is complimentary to work. Work is not so essentially a cultural product whereas leisure is. Leisure being a cultural product has differed from culture to culture in terms of its form, expression and contribution. The rich and powerful have been found pursuing leisure vigorously and over indulging in leisure, whereas the commoner has been relegated to work, hard work and routinized work. Leisure has always been found associated with prosperous economy and power whereas work has been represented as an empirical reality associated with misery, poverty and oppression. This logically corroborates that man seeks leisure not work. One can find ample theories, which directly or indirectly corroborate this. If Veblen talks of leisure class then Marx talks of alienation on the other hand. Human beings strive to move from a state of maximum work to maximum leisure. There are two universal features about trade unions all over the world today- i.e. their demand for maximum wages and minimum hours of work (per week/month) to give them maximum leisure. This speaks for a constant yearning for maximum leisure. In the human life cycle also, the childhood and old age has maximum leisure and the youth and middle age has minimum leisure; similarly at the level of our society, the primitive man had maximum leisure and the modern man is seeking

maximum leisure with minimum leisure in the ancient and medieval periods. The other major feature associated with leisure and work is that routinised work is inversely proportional to creativity and the amount of leisure is directly proportional to creativity. This thing has been realized by modern man, hence he is seeking to replace man with machine where routinised work is involved and reserving himself for maximum leisure and this gives us a hope for greater creativity in future generations.

The relationship between leisure and work, gender, community and social stratification had indeed evolved an orderly pattern. The hierarchical principle of ordering of economic and social relationships also operated in the domain of leisure activities. The poor have little leisure and among them the weaker sex, the women have less leisure than men. Similarly, in the North-South dichotomy, Northern population seeks maximum leisure indulging in various modes of leisure including tourism, while for the Southern population it is work and work and more work, just to keep the body and soul together.

### **FEMINIZATION OF POVERTY AND EXPLOITATION**

In the decade of 1970s new theories were propounded to reflect upon the global changes occurring in the labour scenario such as the 'New International Division of Labour' (NIDL) and the 'feminization of labour force'. The multinational corporations transferred large portions of their more labour-intensive processes to third world countries where labour force was cheaper, for example, in electronic and automotive assembly. The majority of new workers were women. As per the statistics of the International Labour Organization (ILO), global employment almost doubled between 1965 and 1995. Most of this expansion took place in developing countries and more than half of these new recruits are women.<sup>2</sup>

It is often accused, rightly so, that the globalization is gendered. The globalization has drawn more women worldwide into the labour force, but women feature disproportionately among the most exploited workers. This has led to the 'feminization of poverty and exploitation'. Often it is noticed that women are grossly under-represented in global economic decision making bodies and over represented among the victims of globalization. On the contrary, women contribute substantially more than men in creation of wealth globally, specifically if the unwaged component of the contribution by women is taken in account.

"While there has been no formal globalization of labour market, in practice vast numbers of migrant workers travel around the world seeking employment and a large portion of them are women."<sup>3</sup>

The employers in the capitalist world have begun to take advantage of the fact that it is much simpler, cheaper and easier to manipulate a woman employee as against a male employee. In industries involved with light manufacturing and labour, sections of production where the prime skills of women require meticulous and patient attention to details, more and more women are being employed.<sup>4</sup> The capitalists also find easy to convince these women workers that their work deserves little payment.<sup>5</sup> The largest employment for women comes from the unorganized household sector.

"Owing to immigration controls, a large chunk of the migrants are undocumented and are thus easily accommodated in a so-far invisible sector. Even among the documented, excessive competition has necessitated the move towards the household sector. Such women are forced to contend with sexual harassment, long hours of work, little leave, arbitrary treatment by their employers, insecurity or even the loss of the job and the right to stay in the country. These problems remain hidden and do not precipitate a response from the state. Increasingly what was a short-term remedy is becoming long-term employment with few opportunities for growth. Further, the gruelling hours spent at work leave little time for the domestic help to take care of their own children [Kwong 2000: 301-2, 323]"<sup>6</sup>

In another case study of garment workers, a community hearing organized by the Asian Immigrant Workers Women Advocates (AIWA), the migrant women, contractors and various experts testified. The community hearing, 'Immigrant Workers Speak Out on Garment Industry Abuse,' was held on May 1, 1993 in Oakland, California.<sup>7</sup> The garment industry has

traditionally for more than a century employed immigrant women workers. One of the Chinese immigrant seamstresses reported –

"All the workers worked long hours, 10 to 12 hours a day and 6 to 7 days a week. They are paid below minimum wages by piece wage system. There is no concept of overtime allowance or wage. The worker's eyes hurt due to poor lighting and back develops permanent pain due to continuous bending on the sewing machines; the throat hurts because of the chemical fumes from the fabric dye. There are instructions against going to the bathroom or loud talking or laughing."<sup>8</sup>

The exploitation of labour force often violates human rights. So much so in the most developed economy of the modern world, USA, the poor are denied fulfillment of the most basic needs at their work places. Marc Linder and Dr. Ingrid Nygaard highlighted the plight of poor women workers in USA where the companies even do not allow them to go to urinals during work hours. Therefore, they have to wear diapers when they go to work so that they can ease themselves like infants.<sup>9</sup> When these workers could not avail minimum basic rights of survival then how one can expect employers to give them the right to leisure. Leisure is largely meant for the privileged and most often for men folk only.

Recognizing exploitation and discrimination against women, an International Convention was drafted often described as an International Bill of Rights for Women, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979. Globalization has exposed the weaknesses of human rights regime under the United Nations system. Human rights had been developed in the context of states and the institutions that protected human rights were national institutions. Human rights had been conceived in terms of protection against national political forces, but now power is shifting from states to globalized economic forces. There are plenty of abuses from multinational companies, in terms of their employment practices, but the power of these companies is so great that the local national institutions cannot do much.

Indra Munshi has shown how women are doubly distressed due to tourism in places like Goa. The women involved in working for tourist industry have also to work in their own families and it becomes worse in case of paying guest hostesses. Even the income earned by her as tip goes to the family and this is often spent in a car or a motorbike but not in a washing machine which would reduce her drudgery. She further observes:

"At the same time, keeping guests at home or running a restaurant doubles the burden on the woman. While the husband works only in the restaurant, the wife takes care of the family, "cooks at in the morning, and then in the restaurant, goes back home to do other chores, and returns to the restaurant to work till late at night". Do women acquire control over the income from these activities or does it become a part of the family pool, do they experience other types of freedom as well, are questions that require closer examination. Different regions will show very different results depending upon a variety of other factors like their overall social and economic standing in the family and community."<sup>10</sup>

The ethical and legal questions arise when poor women and children from poor tourist destination countries suffer with extremely hard work and exploitation due to indulgence of the rich in tourism which includes sexual tourism. So for a sexual tourist it may be leisure but for the sex worker it is hard work besides being highly unethical and in some places illegal.

"It is common knowledge that the promotion of sexual services is an important part of marketing Thailand as a tourist destination. It is estimated that there were between 5,00,000 and a million prostitutes in the early 1980s. Of course, not all prostitutes cater to sex tourists. Besides, many Thai women become "rented wives", somewhat like the Kisaeng of Korea, who accompany the tourist, particularly to Holland, Germany and Japan. A number of Filipino women are known to travel to Japan and Germany. Most of the female and child prostitutes in Thailand come from the poor north and north-eastern regions. Until the end of 1980s, the government promoted sex tourism as a means to earn foreign exchange to the extent that Minister openly advocated tourism prostitution as a means of employment generation. In 1990s although prostitution for local customers was more prevalent, foreign-

oriented prostitution was extremely important to Thailand's accumulation of foreign capital."<sup>11</sup>

### **MIGRANT WORKERS, MISERY AND EXPLOITATION**

There is no concept of leisure for migrant workers, especially, if they happen to be illegal or undocumented workers. The industrialists of the developed countries prefer to employ migrant workers, especially, the illegal ones, often termed as undocumented workers. These undocumented workers are considered to be less demanding and hardworking, more vulnerable to exploitation as they would be willing to work for any wage in order to sustain themselves. The events of September 11 (9/11) have provided a moral justification to developed countries for restricting immigration and further tightening immigration laws in the name of combating terrorism.<sup>12</sup>

Any worker intending to migrate across international borders seeks to legally migrate in the first instance and when he/she fails then he/she would resort to secure migration by way of using asylum procedures or illegal channels of infiltrating through the borders.

"For would-be migrants who do not qualify for immigrant visas, asylum procedures seem to offer a chance to secure admission and improve their lives in a new land. In the absence of a migration window, people who are seeking jobs and a better future try to get in through the asylum door."<sup>13</sup>

This report goes on to explain how restrictive and tough methods of immigration control are threatening the fundamental principles of refugee protection. It also critically refers to language of politicians who raise exacerbated xenophobia among local population against immigrants causing unsympathetic attitudes towards migrant population.<sup>14</sup>

Most of the migrant population suffers from poverty and poverty is a severe form of degradation of human dignity; extreme poverty is a violation of human rights. Even a country like the US with a \$12 trillion economy, which is the most powerful and economically strong country, shows conditions of extreme poverty and this substantiates the fact that it is not due to unavailability of resources and institutions rather it is a violation of human rights which includes leisure also. The USA played instrumental role in the adoption of the Universal Declaration of Human Rights, 1948. The interdependence and indivisibility of all human rights were reaffirmed in the 1993 Vienna Declaration and Programme of Action, to which the US is a party. The US signed but did not ratify the International Covenant of Economic, Social and Cultural Rights (ICESCR), however, it did ratify the International Covenant on Civil and Political Rights (ICCPR). Thus, the US refuses to recognize economic, social and cultural rights as guaranteed in the federal law. While fundamental civil and political rights find place in the first ten amendments of the US Constitution known collectively as the Bill of Rights, there has been a marked legislative attitude to reduce and limit a number of welfare benefits as entitlements, for example, 1996 reform of the public social welfare programme, tends to derecognize such welfare benefits as entitlements. However, judiciary in US has upheld such welfare benefits as statutory entitlements.

"In one landmark decision, *Goldberg v. Kelly* (397 US 254) of 1970, the US Supreme Court held that welfare benefits were 'a matter of statutory entitlement for persons qualified to receive them. Their termination involves state action that adjudicates important rights. The constitutional challenge cannot be answered by an argument that public assistance benefits are a 'privilege' and not a 'right'."<sup>15</sup>

Often it is the migrant families who suffer from disparity of wages and employer provided benefits.<sup>16</sup> Nearly half of the children of the immigrants have family incomes below 200 per cent of the poverty line. It is estimated that more than half of the poor in California are immigrants (i.e., below 200 per cent of the federal poverty line) and one third of the immigrants are below poverty line in New York, New Jersey, Florida, Texas and Arizona.<sup>17</sup> The poverty rate of children in immigrant families is 21 per cent, as against 14 per cent for children in native-born families.<sup>18</sup>

"...there were over 2,00,000 domestic workers in New York city, mostly immigrants from third world countries, and they received no sick leave, no paid vacation, no healthcare, and were often fired if they got sick or pregnant. Working between 11 and 16 hours a day, they lived and worked in slave-like conditions, excluded from the most labour protections. Members from the National Mobilisation Against Sweat Shops (NMASS), representing low-income, immigrant and native born people working as home attendants, garment workers, construction workers, office workers and restaurant workers, petitioned that they had to work under inhuman conditions for little money and no health insurance and that immigrant workers were blamed for taking jobs away from other citizens. Laws related to employer sanctions were seen to create an underground economy where documented workers competed against other undocumented workers who could be hired at considerably lower costs. It was suggested that repealing such laws would eliminate the employer preferences for undocumented workers, even if it would not prevent the exploitation of these workers."<sup>19</sup>

Migrant workers from Mexico, Central American countries and Haiti work in the prosperous agriculture industry of the US at Immokalee, Florida. These migrant workers work as almost slaves or bonded labourers.

"The Coalition of Immokalee Workers, which campaigns for fair wages for farm workers, maintained that farm workers were often held as bonded labourers or slaves. They worked for long hours without minimum wages, benefits, vacations and the right to organize."<sup>20</sup>

"The American Immigration Control and Reform Act, 1986 though meant to prevent an employer from hiring an illegal immigrant but has only helped greater exploitation of immigrant workers by the employers. No wonder it is also called as 'Slave law'."<sup>21</sup>

"If workers have proper papers, many bosses will tell them that there is no work available. From the bosses' perspective illegal make a much better workforce; they are usually young, compliant and willing to work long hours. If a worker cannot produce documentation, the boss says he will do him a favour. Since the boss is doing the worker such a big favour, the worker is not expected to mind being paid less-say 20-30 per cent less – nor working long hours ... Employer sanctions have helped create a larger army of surplus labour and to keep all workers' wages down – which is exactly the opposite of what the AICRA intended and exactly what the employers hoped for."<sup>22</sup>

A case study conducted in the Silicon Valley highlights the sub-human conditions where human rights are blatantly violated by the electronics industry. Most of these workers are immigrants from Vietnam, Philippines, Korea, Ethiopia, Latin America and South Asia.<sup>23</sup> They have no time for indulging in leisure time.

"Electronics production requires so much labour that the hi-tech industry employs one out of every five wage earners in the Valley (economic development department). For the over 2,00,000 people labouring in the manufacturing sector, 70 per cent of whom are Asian (*San Jose Mercury*, April 16, 1999), working conditions do not match up to the industry's public image. Contrary to the charismatic Intel commercials displaying workers in fabrication labs dancing around in choreographed bliss, the real work environment is anything but a party. Fabrication labs and other hi-tech production sites have proven to be dangerous, abusive, and shockingly never seem to play danceable 1970s disco. In actuality, modern hi-tech industry is riddled with some of the most archaic expressions of naked exploitation. Electronics manufacturing plants and their ill-fated surrounding low-income neighbourhoods are saturated with carcinogens, acids and highly toxic gases. (Hawes, *Workplace Hazards for Hi-tech Workers*, 1996) – Toxicology studies have shown that the chemicals in common industrial use have damaging effects on the brain and the immune, endocrine and central nervous systems. These studies report findings for less than 2 per cent of the 80,000 industrial chemicals that have comprehensively tested for potential long-term effects on human beings. (Hironaka/Caudros, *Environmental Justice Starts in the Workplace*, 1996) For all practical purposes, workers on the line are the laboratory animals being experimented upon to determine the synergistic results of combining these unknown chemicals. The by-product has been industrial occupational illness rates three times that of general manufacturing (Eisenscher, *Silicon Fist in a Velvet Glove* 1993)."<sup>24</sup>

### CONCLUSION

Therefore, there is a strong need of the hour to redefine the global order and this would need favorable political conditions at national and international level that support and promote social justice, fair distribution of economics growth and full realization of socio-economic rights of the weakest of the population, especially, poor and the weaker gender.

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- <sup>7</sup> *Ibid.* p. 2223.
- <sup>8</sup> *Ibid.*
- <sup>9</sup> Linder, Marc and Nygaard, Ingrid. 1998. *op.cit.*
- <sup>10</sup> Munshi, Indra, (2006): "Tourism Processes and Gender Relations: Issues for Exploration and Intervention" in *Economic and Political Weekly*, October 21, p. 4464.
- <sup>11</sup> *Ibid.* p. 4463.
- <sup>12</sup> In his 'Introduction,: World Orders, Old and New', Noam Chomsky, writes, "From 1917 through the 1980s, virtually every act of US subversion, violence, or economic warfare in the Third World was justified on grounds of defense from the Russians...A consequence of the Soviet collapse is that a new framework is needed for intervention. The problem arose through the 1980s, requiring a propaganda shift to international terrorists. Hispanic narcotraffickers, crazed Arabs, and other chimeras...In brief the prime concerns continue to be control of the South and support for high tech industry at home, with the ideological framework adapted to new contingencies."; Bennis, Phyllis and Michel Moushabeck (eds) *Altered States: A Reader in the New World Order* (LYG: Oliva Branch 1993).
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