



Human Rights Infracton Of Children Through Child Labour In India

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Abstract

Constitution of India guaranteed the child rights against the employment of children in factory, mines or engagement in any other hazardous employment. Not only this, there are other constitutional provision and many legislations to protect the interest of children. As child labour is a vital issue for any developing countries like India or under developed countries or any developed countries. It is because almost one third of the world's population comprises of children. Children are important of the social structure and the potential future carries of the culture unfortunately, the problem of child labour is existing in our country. Children's are the gift of 'God'. Nature has given childhood, as a gift to human being. It is believed that childhood is an evidence of the faith of God in human being. So, the childhood of any child should not destroyed. "Dignity of labour is honour in hour of work culture" said by Mahatma Gandhi.

Keys: Human Rights, Child Labour, Human Rights Commission, Fundamental Rights of Child, Protection of Children

Introduction

The Children are delicate and precious flowers of life. It is undisputed that they are the potential embodiment of our ideals, aspirations, ambitions, dreams and hopes. One may sincerely visualise in their innocent personalities the great scientists, philosophers, committed rulers, devoted policy makers, utilitarian legislators, efficient administrators, worthy engineers, enlightened industrialists, patriotic and dedicated soldiers and best citizens always to serve nation and apostle of international peace and security of the 21st Century. The child, for the full and harmonious development of his or her personality, should grow up in a very congenial family environment, in an atmosphere of happiness, love and understanding.

Hon'ble Mr Justice Hansaria says, "I am a child: All the world waits for my coming, all the earth watches with interest to see what I shall become". So the child must receive education, acquire knowledge of man and material and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.

History of Child Labour:

Child labour is not a new problem or experience. It has existed in every part of the world since ancient times. In more recent history, it emerged as an issue during the industrial revolution when children were forced to work in dangerous conditions for up to 12 hours a day. In 1860, 50% of children in England between the age of 5 and 15 years were working. In 1919, the world began to address the issue of child labour and the International Labour Organisation (ILO) adopted standards to eliminate it. Throughout the 20th Century, a number of legally binding agreements and international conventions were adopted but in spite of these, child labour continues to this day. The highest number of child labourers is in the Asia-Pacific region but the largest percentage of children working, as proportion of the child population, is found in sub-Saharan Africa.¹

Child Labour in India

Child labour in India is a human right issue for the whole world. It is a serious and extensive problem, with many children under the age of fourteen working in carpet making factories, glass blowing units and making fireworks with bare little hands. According to the statistics given by Indian government there are 20 million child labourers in the country, while other agencies claim that it is 50 million.

The situation of child labourers in India is desperate. Children work for eight hours at a stretch with only a small break for meals. The meals are also frugal and the children are ill nourished. Most of the migrant children who cannot go home, sleep at their work place, which is very bad for their health and development. Seventy five percent of Indian population still resides in rural areas and are very poor. Children in rural families who are ailing with poverty perceive their children as an income generating resource to supplement the family income. Parents sacrifice their children's education to the growing needs of their younger siblings in such families and view them as wage earners for the entire clan. Child labour is a conspicuous problem in India. Its prevalence is evident in the child work participation rate, which is more than that of other developing countries. Poverty is the reason for child labour in India. The meager income of child labourers is also absorbed by their families. The paucity of organized banking in the rural areas creates a void in taking facilities, forcing poor families to push their children in harsh labour, the harshest being bonded labour.

Factors affecting child labor

But what leads to child labour. The answers can be obtained from the following points: 1) Less income of the family leads to child labour. The child is forced to work and earn at a very lower age. It becomes a compulsion for them to work and earn livelihood for themselves and their families. Thus a child for the sake of his family is compelled to work in several places.

2) Ignorance of parents towards education results in lack of education of child and he have no other options but to work and earn his livings.

3) Children are found to be better producers of certain products such as knotted carpets and other such kinds of goods. Hence, these children are hired and exploited to work and produce such types of goods. This is known as "NIMBLE FINGER THEORY".

4) Discrimination on grounds including gender, race or religion also plays its part in why some children work at such tender age.

5) Child trafficking is another cause of child labour. A number of children are bought and sold and are exploited to work as labourers, beggars, domestic workers, etc.

6) In domestic matters, children can be made to work easily and at the low wage. Moreover, the masters can dominate them easily. Thus, the number of children working in households constitutes the major part of child labour.

However, across the world, millions of children do extremely hazardous work in harmful conditions, putting their health, education, personal and social development, and even their lives at risk.²

These are some of the circumstances they face:

- Full-time work at a very early age
- Dangerous workplaces
- Excessive working hours
- Subjection to psychological, verbal, physical and sexual abuse
- Obligated to work by circumstances or individuals
- Limited or no pay
- Work and life on the streets in bad conditions
- Inability to escape from the poverty cycle — no access to education

Child Labour Policy in India:

There are specific clauses in the draft of Indian constitution dated 26th January 1950, about the child labour policy in India. These are conveyed through different articles in the Fundamental rights and the Directive Principles of the State Policy. They lay down four specific policy rules regarding child labour. They are as following:

- 1) (Article 14) No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- 2) Article 39-E) The state shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of children are not abused .
- 3) (Article 39-f) Children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth shall be protected against moral and material abandonment.
- 4) (Article 45) The state shall endeavor to provide within a period of ten years from the commencement of the constitution for free and compulsory education for all children until they complete the age of fourteen years.

The main legislative measures at the national level are The Child Labour Prohibition and Regulation Act -1986 and The Factories Act -1948. The first act was categorical in prohibiting the employment of children below fourteen years of age, and identified 57 processes and 13 occupations which were considered dangerous to the health and lives of children. The details of these occupations and processes are listed in the schedule to the said Act.³

The factories act again prohibits the employment of children less than fourteen years of age. However an adolescent aged between 15 and 18 can be recruited for factory employment only after securing a fitness certificate from a medical doctor who is authorized. The Act proceeds to prescribe only four and hour's work period per day for children between 14 and 18 years. Children are also not allowed to work in night shifts.

Bonded labour in various Industry

At every stage of the silk industry, bonded children as young as five years old work 12 or more hours a day, six and a half or seven days a week. Children making silk thread dip their hands in boiling water that burns and blisters them. They breathe smoke and fumes from machinery, handle dead worms that cause infections, and guide twisting threads that cut their fingers. As they assist weavers, children sit at cramped looms in damp, dim rooms. They do not go to school and are often beaten by their employers. By the time they reach adulthood, they are impoverished, illiterate, and often crippled by the work. Contrary to the Indian government's claim bonded children are very conspicuous In India everywhere. Uttar Pradesh, Karnataka and Tamil Nadu form the core of India's silk and sari industry.

Indian sweet shops function quietly and illegally as household industries making little children toil for long hours on very low wages before huge cauldrons of burning fat. Many children working in Indian sweet shops remain unpaid or poorly paid, are scolded, ill treated and underfed. Studies of children toiling in Indian sweet shops show that they mainly hail from Bihar, Uttar Pradesh and Nepal. These children sometimes also double up as domestic help for the owners of the sweet shops and their families.⁴

Most of the children working in this sector are not paid more than 300 to 800 rupees in a month, for more than twelve hours of labour each day - in suffocating rooms which are hot and smoky. The different processes of making Indian sweets also tantamount to hard and relentless labour. A study shows that most of the children working in Indian sweet shops want to quit work and go to school. They also pine to stay with their parents and other family members. The owners of sweet shop discourage their ambitions and shun the attempts of any social activists who try to bring their plight in the lime light.⁵

Laws Relating To Protection of Children

“The hallmark of culture and advance of civilization consists in the fulfilment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual. It is the birth right of every child that cries for justice from the world as a whole”. This exceptional vulnerability of children exploitation gained international attention and led to the passing of various instruments to protect the rights of children.

The movement for the rights of children can be traced back to the mid-nineteenth century with the publication of an article in June 1852 by Slagvolk, titled “The Rights of the Children”, followed by Kate Kliggins, “Children Rights” in 1892.

- Declaration of the Rights of the Child, 1959
- Convention of Rights of the Child, 1989
- World Summit for Children, 1990
- UN Conference of Environment and Development, 1992

- World Conference on Human Rights, 1993
- International Labour Organization (ILO)
- United Nations Commission on Human Rights, 1994
- United Nations Commission on Crime Prevention and Criminal Justice, 1994
- Fourth World Conference on Women in Beijing, 1995
- Conventions regarding minimum age:
 - Minimum Age Industry-1919
 - Minimum Age Agriculture-1921
 - Minimum Age Non-Industrial Employment-1932
 - Minimum Age Revised-1937
 - Minimum Age Non-Industrial Employment-1937
 - Minimum Age Underground work-1965
 - Minimum Age-1973
 - Minimum Age Sea- 1920
 - Minimum Age trimmers & stokers-1921
 - Minimum Age Sea revised-1936
- Convention Regarding Work at Night:
 - Night work of Young Persons (Industry)-1919
 - Night work of Young Persons (Non-Industrial Occupation)-1946
 - Night work of Young Persons (Industry)-(Revised)-1948

Recommendations to stop Child Labour:- To curb the social evil of child labour, the following are some suggestion:-

1. Citizen watch Citizens can volunteer and inform the right authorities if they notice child labour anywhere. Government can announce awards to whistle blowers to encourage the practise.
2. Media campaign- When communities were small, people probably refrained from committing crimes due to the fear of social boycott. If media publishes information of wrong doers, others may stop from such acts.
3. Education The elimination of child labour is interlinked with the provision of full-time, formal and quality education provide free to all. Many children do not have a choice but to work because there is no (well-functioning) educational system available or because they are not stimulated to attend education. During the Industrial Revolution it was possible to eliminate child labour in Europe due to a combined mandate of prohibiting child labour and implementing compulsory education. This should also happen in developing countries.
4. Special Attention to Girls Two thirds of all children that are not going to school are girls. The work that they perform is often hardly visible, e.g. in one's own or someone else's household (domestic child labour). This work is denying these girl children their right to education. The backward position of girl children is a consequence from the belief that girls do not need to be educated because they will become housewives anyway. In some communities girl children drop out of school early because of child marriages.

Moreover girl children are often taken out of school because it is considered inappropriate and dangerous to walk long distances to school.⁶

At the moment there is fortunately more attention for the arrears of girls in their participation at basic education. This should however be tied to an equal attention for the 'hidden' work of girls that is often the largest obstacle to their participation at full-time education. As long as the community is accepting that children work instead of going to school, child labour & low school participation will not be eradicated. Through the provision of full-time, quality education and the reduction in global demand for cheaply produced products, the elimination of child labour is achievable.

Conclusion

The foregoing chapters reveal that ever since India achieved independence, the executive, the legislature and the judiciary in India have taken several proactive measures to put in place an exhaustive legal and policy framework for safeguarding the rights of children so as to ensure their survival, development, protection and participation. Several new plans, schemes and programmes have been initiated to address issues concerning children. Yet, the plight of children across the country has not got better and continues to be precarious. The burning issues relating to children are the adverse child sex ratio, persistently high infant and child mortality ratios, wide gender gaps in literacy, escalating violence against children especially against the girl child and the rising incidents of female foeticide, female infanticide and child marriage. This apart, the existent loopholes in the laws concerning the definition of the child as well as those laws that try to protect their vulnerabilities are areas that cannot be ignored if at all the best interests of children are to be protected and promoted.

Provide a broad overview about children as well as provoke a rethinking of settled ideas about children and childhood so as to interrogate dominant notions which are underpinned by naturalistic and biologically determined conceptualizations. We all know that there is no universal picture of children or for that matter childhood. Moreover, for understanding childhood it is important to demystify the glory of any one class, caste, region, gender or time. The need of the hour is to unpack the manner in which children and childhood so far have been understood. Who would wish to beg or grovel, to be the recipient of noblesse oblige or charity when they can demand what is their due? Rights are entitlements; they are trumps; they are valuable commodities. And they are also, as we now learn, weapons to undermine power. A rights strategy is one way in which the hitherto excluded can be included, within the community and within the socio-economic and political structure. Last but not the least, there is need to increase the budgetary allocations with regard to children and also ensure that the entire amount allocated is spent on the child population.

(Footnotes)

¹ Dr Mamta Rao, Law Relating to women and children, Eastern Book Company 2008.

² P.L Mehta and S.S.Jaiswal: Child Labour and law-myth and reality of Child Labour welfare, Deep and Deep, New Delhi, 1996

³ http://www.stopchildlabour.net/reportsanddownloads/Child_labour_Sec1.pdf

⁴ <http://www.getyourcontent.com/1/86593-0/Child-Labour—A-Menace!.aspx>

⁵ Justice Gulab Gupta: Human Rights and Fundamental Freedoms in India, M.P. Human Rights Commission, Bhopal 2002.

⁶ <http://www.stopchildlabour.net/answers.php>

