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CHILD LABOUR – A DISCUSSION IN THE CONTEXT OF HUMAN RIGHTS

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ABSTRACT

According to the Universal Declaration of Human Rights, "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

KEYWORDS : Child Labour , Human Rights , child labours .

INTRODUCTION

The term "human rights" refers to the rights and privileges that every person in the world should expect to receive as part of being human. Human rights have been violated throughout history and in virtually all known societies, as people have faced oppression, persecution, and exploitation. Only after World War II (1939-45) did human rights become an important international issue and a serious concern of nations around the world.

Today, the world lives in an atmosphere where there is an unprecedented increase of human rights enunciations and a growing disregard for these very rights enunciations and a growing disregard for these very rights. The children's group is one of those vulnerable groups whose rights have been disregarded due to many reasons. The violation of human rights of children has always been an area of concern. It is at the most destructive end, where children are used as labour of worker or slave in particularly hazardous conditions to repay debts incurred by their parents or grand parents. Many times the industrialists engage child labours without giving them adequate remuneration to gain more profit. As per the statistics given by United Nations some 250 million children between the ages of 5 and 14 work full time or part-time. Of these some 50 million to 60 million are between 5 and 11 years and



work full time by definition, in hazardous circumstances, considering their age and vulnerability, child labour practice is not limited only up to undeveloped countries but it is common in developed countries also. For example, in the United State, more than 230000 children work in agriculture and many in sweet shops.

The Meaning of Human Rights

The Declaration, which was adopted in 1948, is perceived as "common standard of achievement for all peoples and all nation." Article Seven of the document proclaims:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Child labour

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

It refers to work that:

- + Is mentally, physically, socially or morally dangerous, and harmful to children; and
- + Interferes with their schooling by;
- + Depriving them of the opportunity to attend school;
- + Requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, child labour involved children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age. Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.

Child labour in the context of Human Rights-

It is indisputable. Child labour is a human rights problem, (Burns H. Weston ed. & contrib., 2005) and increasingly recognized as such the world over. As well it ought. Of the approximately 246 million children between ages 5 and 17 estimated by the International Labor Organization (ILO) to be engaged in “child labour”, (ILO, Geneva 2001), large though uncertain numbers toil in appalling conditions, are ruthlessly exploited to perform dangerous jobs with little or no pay, and thus made often severe physical and emotional abuse. They can be found in brick factories, carpet weaving centres, fishing platforms, leather tanning shops, mines, and other hazardous places, often as cogs in the global economy. They can be found-most abundantly-in domestic service, vulnerable to sexual and other indignities that escape public scrutiny and accountability.

Before the 1989 United Nation Convention of the rights of the Child (CRC, 1989), however, the problem of child labor, even in its worst forms, was seldom addressed as a human rights problem. The practice of the ILO over the years, though long nobly sensitive and attentive to the needs and wants of immediate importance to most people, is illustrative. No. ILO convention addressing issues of child labor prior to the 1989 CRC couched its provisions in the language of rights, let alone mentioned “human rights,” to define its mission or achieve its goals.

The first of these important law-making initiatives, concluded in 1930, may perhaps be excused for having been adopted before human rights law began to be taken seriously in world affairs, beginning with the 1945 Charter of the United Nations and the 1948 Universal Declaration of Human Rights (UDHR, 1948).

But not so the latter two treaties, concluded in 1957 and 1973, respectively, and joining a long list ILO conventions that address all sorts of worker issues without engaging human rights discourse. (James A. Gross, ed. 2003).

It is important to acknowledge, however, that, since the adoption of the 1989 CRC and particularly the 1999 ILO Convention (No. 182) Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour (ILO C 182, 1999) a commitment to the abolition of child labor as a human rights imperative has taken hold and begun to spread. Key intergovernmental organizations (IGOs) working in the field now actively affirm the link between child labor and human rights-most

prominently, even if sometimes equivocally, the ILO (ILO Declaration, 1998). Also committed to a rights based approach to child labor is the World Health Organization (WHO) whose Department of Child and Adolescent Health and Development (CAH) recognizes that the basic health needs of children and adolescents are fundamental human rights dependent for their protection and fulfillment on the realization of other rights such as “freedom from all forms of exploitation.” Human rights orientations to child labor are now found also, even more conspicuously, among nongovernmental organizations (NGOs) working in this field.

Thus, both alone and in growing combination, variously specialized IGOs and NGOs, increasingly in collaboration with national governments, have in recent years placed child labor, especially its worst forms, high among their concerns and in the also have begun to achieve some discernible progress.

The Most Reasons of Child Labour is come in system :

While discussing the reasons of child labour system, the two questions are to be addressed. First is why people engage their children as labour, worker of slave? And why employer employs children?

People engage their children as labour mainly due to large population, poverty. Illiteracy, unemployment and unawareness about their human rights. All these reasons are interdependent in nature. Large population produce poverty. Due to poverty, people treat education as unnecessary and remain illiterate. Due to illiteracy, they remain unaware about their human rights including the schemes, policies, which have been sponsored for them by Government, or by some organization, due to illiteracy, they do not get adequate employment or work for livelihood and many times they remain unemployed.

Due to unemployment, people face poverty. Hence, people have to engage their children in any type of work. According to them, more children mean more income. Such equations of people results into large population of nation. On the other hand, the employers want to employ children on work, mainly due to children represent the cheapest source of human labour. Children have good concentration and dedication towards work in comparison to adults. In addition to this, due to physical and mental vulnerability, children can be exploited easily.

LEGAL ASPECTS OF CHILD LABOUR :

United Nations Convention on the Rights of the Child (CRC)

Definition of a child: Using the United Nations Convention on the Rights of the Child, a child considered to be any human being below the age of 18 (CRC Article1). The term “Child Labour” as defined by International Labour Organization (ILO) generally refers to any economic activity performed by a person under the age of 15. ILO establishes as general minimum age of 15, provided 15 is not less than the age of completion of compulsory schooling. Many countries make a distinction between light and hazardous work, with the minimum age for the former generally being 12, for the latter usually varying between 16 and 18. ILO conventions adopt this approach, allowing light work at age 12 or 12, but hazardous work not before 18. The age of 15 years is the most widely used yardstick when identifying how many children and currently working around the world. In simple words, the child labour refers to those employments which prevents child from attending school regularly and which is hazardous to the physical and mental health of the child. In reality, children do a variety of work in widely divergent conditions. This work takes place along a continuum, from work that is beneficial, promoting of enhancing a child’s development without interfering with schooling. Recreation and rest

to work that is simply destructive or exploitative.

Legal Status in India:

Indian Constitution is the fountainhead for has granted justice, equality and Liberty. Article 21 of the Constitution is the Cambodian of he human rights. It is about the protection of life and personal liberty of every individual. The important feature of Article 21 is, it gives right to life to all persons and not only citizens of India. Further in regard to specific provision for children and more particularly for child labour Article 24, Article 39(e) and (f) are available. The Articles deal specifically with the problem of child labour. Article 24 says “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”. Article 24 is a fundamental right. Further directive principles of State policy provides: “the health and strength of workers, men and women, and the tender age of children are not abused and that citizens and are not forced by economic necessity to enter avocations unsuited to their age or strength; that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.” Article 15(3) provides:

“Nothing in this Article shall prevent the state from making any special provision for women and children”. Besides these provision, Article 51 States in regard to promotion of international peace and security. It says: “The State shall endeavor to – (c) foster, respect for international law and treaty obligations in the dealings of organized people with one another...” Article 253 gives power to Parliament to make any law for the whole or any part of the territories of India for implementing any treaty, agreement or convention. Besides Constitutional provisions, the Parliament has enacted several Acts. 1976, The protection of Human Rights Act, 1993 etc. The most important Act to prevent child labour system is ‘The child labour (Prohibition and Regulation) Act, 1986.’

Main features of this Act are as follows:

The Child labour (Prohibition and Regulation) Act, 1986 came into force from 23rd December 1986. Its main objectives are to prohibit the employment of children in certain categories of industries and to regulate the conditions of work of children in certain industries. It was amended in 1988. The Act is applicable to all establishments such as workshop, farm residential hotels, amusements where child labour is largely employed. The Act extends to the whole of India. Under this Act, a child means a person who has not completed 14 years of age. The main provisions of Act are as follows:

1. Prohibition of employment of children in certain occupations and processes: No child can be employed, or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop where in any of the processes set forth in part B of the Schedule is carried on.
2. Hours and period of work: No child shall be allowed to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments. The daily hours of work shall be so fixed that no child shall be allowed to work for more than three hours without prior interval o half an hour.
3. Weekly Holiday: Every child employed in any establishment shall be given one weekly holiday of 24 hours.
4. Health and safety: The appropriate government by notification in the official Gazette can make rules for health and safety of children employed or permitted to work in any establishment or class of establishment.
5. Child Labour Technical Advisory Committee: The Central Government by notification in the official

Gazette may constitute a Child Labour. Technical Advisory Committee to advise government for the purpose of occupation and processes to be included in the purpose of occupation and processes to be included in the schedule.

6. Power to Make Rule: The appropriate government by notification in the official Gazette can make rules for the proper enforcement of the Act.

7. Appointment of Inspectors: The appropriate government may appoint inspectors for the purpose of securing compliance of this Act.

8. Penalties: Whosoever employs any child or permits any child to work in contravention of the provision of Act shall be punishable with imprisonment for a term of not less than three months but can be extended to one year or with a fine which shall not be less than ten thousand rupees, however, it can extend to twenty thousand rupees or with both.

REMEDIAL MEASURES:

The laws enacted for the benefit and development of child labour should be supported and backed by public opinion. If progressive legislation lacks the support of public opinion it just becomes a dead law.

It should be asserted that a social reform be done in consonant with social thinking, behaviour and after creation of strong public opinion as laws could be effective only if they are backed by a major selection of society.

The law can be effective if two conditions are to be satisfied: one, supportive public opinion in its favour.

Apart from this, public awareness through education, media and other means, political will and commitment combined with efficient administrative support are needed to tackle the problem of children. Special government machinery should be set up for eradication of the problems related to child labour and protection of their rights so that we can give them better deal in life by providing them basic amenities of life so as to make them better citizens of our nation.

India must also take measures to realize its commitment under international law to provide free and compulsory primary education and available and accessible secondary education to every child.

CONCLUSION

Prevention of child labour is a Herculean task. It has to be seen that the tender age of children is not abused and the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. It cannot be used for the massive task of social engineering. As long as the social attitude and thinking remains deep rooted in the prevailing society and the law enforcement agencies remain silent, justice cannot be promoted by paper enactments.

It is an undisputable fact that child of today is the future of our country. So the investment made on children is an asset for the future of our country. As a child is not a vase to be filled, but a fire to be lit, they should be given all necessary amenities and support so that they become responsible citizens of the nation and make the world a happier place to live in.

Child labour cannot be eliminated by focusing on one determinant for example education, or by brute enforcement of child labour laws. The government of India must ensure that the needs of the poor are filled before attacking child labour. If poverty is addressed, the need for child labour will automatically diminish. No matter how hard India tries, child labour always will exist until the need for it is removed. The development of India as a nation is being hampered by child labour. Children are growing up illiterate because they have been working and not attending school. A cycle of poverty is

formed and the need for child labour is reborn after every generation.

India needs to address the situation by tackling the underlying causes of child labour through governmental policies and the enforcement of these policies. Only then will India succeed in the fight against child labour.

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