

MENACE OF CHILD LABOUR: A QUESTION OF COMMITMENT OF HUMAN RIGHTS

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Abstracts:

Transgender Human rights of child have a legal recognition at International & national level but deprived socio-economic conditions are responsible for exploitation of their rights. This article examines issues for incessant violations as well as provides duty-bound suggestions to uplift human rights of children from menace of child labour.

Keywords: *transgender, human, rights, legal, child labour*

Children form an important asset and soul of any state because they are sole future of such state. It is the duty of state, that, the attention shall be given to ensure that all children shall get proper care, atmosphere, adequate training, education, guidance. So that they will have knowledge to exercise, ask for their interests, rights. But unfortunately, millions of children, across the world, are forced to work as child labourers due to various serious causes. In spite of prohibition by Child labour, various laws, it still continues to prevail, & leads to exploitation, abuse and deprivation of child rights. It has become as universal issue. The issue of the child labour is one of the major human rights issues & mark over its commitments. and is highly sensitive one too. The problem of child labour hampers not only developed nations but developing nations as well. The survival and continuation of child labour is a challenge to the matured human society. It is

really a nuisance and shame upon the society; dishonor for the world of the mankind, a difficulty which may annihilate the economic backbone of the country.

1. CHILD LABOUR: CONCEPTUAL OUTLOOK

The concept of child labour is very complex and difficult one to express and explain. The perfect definition of child labour is neither available in national context nor in international level. But there are several different legislations, institutions have differently defined the concept of child labour as per political, social, economic situations. Basically, the word 'child labour' is an amalgamation of two aspects, i.e. 'child' in terms of his in order to age, and



'labour' in terms of its work culture, amount of work and income generating capacity.¹

The word 'labour' is a notorious conception to define, especially in the background of

child labour and child work. Generally, child labour used as synonyms to the child work. However all work is not hazardous or bad for children because some basic, simple work, properly controlled and regulated, is not child labour. Therefore, it implies that work which derives from activities such as leisure, play and education are not child labour. It can be said that, 'Child labour', is the work which includes some extent exploitation, violations namely, physical, mental, economic and social rights which impairs the growth and health development of children.

According to V. V. Giri, Former President of India and Labour Minister portrayed in two angles i.e. child labour is nothing but the "economic practice" and "social evil". It shows the negative aspect of child labour. According to him, the economic practice denotes the employment of Children in productive occupations as accumulation to the total income of the family. Secondly, 'social evil' implies that, nature of the jobs in which children are occupied, the menace to which they are exposed and it leads to denial of the opportunities of development.²

At International Level, International Labour Organization(ILO) has given comprehensive definition of child labour. According to ILO, "Child Labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to

their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future".³

In India, as per the Child Labour (Prohibition and Regulation) Act 1986, employment of children up to the age of 14 years and in case of hazardous employment up to 18 years is defined as 'child labour'. Again this aspect, completely changes the definition of child only.

Therefore, the concept of child labour has many facets. It has become a complex problem at national and international fronts. The deep rooted socio-economic political causes are present in each of the socio-economic fabric of the society. Hence, there are various approaches to define and understand the concept of child labour. So it may not be wise to rely on one single approach to deal with it. There are many factors responsible to this complex problem, so a comprehensive integrated approach is required to tackle and combat child labour. This can be done only by bringing attitudinal change, and social awareness and rigorous campaign against the problem of child labour. Thus, it requires honest effort and strong commitment and support from all concerned.

2. CHILD LABOUR : THE PROBLEM

The child labour has become a social evil when people started exploiting the children of tender age. At rural areas and even in many of urban areas, the children of school going age are found in factories, hotels,

¹ P.P. Jayanti, "Child Labour A Socio-Legal Study", Vol.I (1998) *Kerala University Journal of Legal Studies, Department of Law, University of Kerala, Tiruvantapuram*, p.143.

² Child labour in India : A socio-economic and legal study, Dr. H.M. Mittal, *Journal of the legal studies*, p.no, 74

³ Children in globalizing world : Challenging Our Conscience, Enakshi Ganguly Thukral, *HAQ Centre for Child Rights*, 2002 – p.no. 278



industries, street workers, trafficked, beedi workers, agricultural field which deprives opportunities for normal, physical, mental and social growth and development. The causes of child to join the hands to such fields at initial age of childhood are many. The problem of child labour is present existed in different parts of the world. There are various attempts made by international authorities from time-to-time to remove child labour.

Apart from the poverty, there are several issues and causes keeps alive the menace of child labour. They may be broadly grouped as follows:

- a. *Inadequate income of head of the family*
- b. *Inappropriate distribution of wealth, assets and land*
- c. *Poor implementation of legislations of compulsory education*
- d. *Preference of employers to children as cheap availability*
- e. *Illiteracy / uneducated backwardness of family members*
- f. *Socio-economic, cultural factors*
- g. *Lack of Political will to eradicate and prohibit child labour*
- h. *Poor implementation of rehabilitation schemes*
- i. *Rampant increase of urbanization and industrialization*
- j. *Lack of implementation of scheme of family allowances*
- k. *Ancient zamindari and bonded labour system*
- l. *Early marriages*
- m. *Dowry system*
- n. *Polygamy*
- o. *Illiteracy*

There have been consistent efforts in past two decades to reduce the menace of child labour. In this regard, a very substantial role

has played by employers and workers and their organizations. Earlier Child bonded labour in India is regularly seen in the agricultural sector but has in recent years, it has been reflecting into other parts as well such as commercial sexual child trafficking, beedi workers, brick kilns, carpet weaving, construction, fireworks and matches factories, hotels, hybrid cottonseed production, leather, mines, quarries, silk, synthetic gems, etc. On other side, as per 2011 census, globally child labour is on the decrease side. Though it cannot to be stopped completely, but it can be minimize, reduced or curtail. From a total of 246 million girls and boys in child labour in 2000, the figure reduced to 11% to 218 million in 2004, with a further decline to 215 million by 2010. The number of children in hazardous child labour has fallen more swiftly, with a 26% decline in the period from 171 million to 126 million and a further decline to 115 million by 2010. However, as an ILO report on hazardous child labour notes, "Progress has been uneven, neither fast enough nor comprehensive enough to reach the 2016 goal."⁴

In 2013, another report was published by ILO, wherein the thematic focus was on Child labour and social protection. In 2015, ILO through its research and World Report, aimed to assess the relationship between child labour and youth employment. In this report, ILO has focused on age group of 15-17 years category workers in securing decent jobs.

⁴ Employers' and workers' Handbook on Hazardous work, ILO Office, 2011, http://www.ilo.org/public/english/dialogue/actemp/downloads/projects/cl_handbook.pdf



3. ROLE OF JUDICIARY : PROTECTION OF HUMAN RIGHTS OF CHILDREN

The Supreme Court of India has been playing an vital role, to protect the basic rights of poor children by interpreting the Constitutional and Statutory provisions in liberal manner, which are relating to employment of children in its judicial decisions. If one needs to do survey of

judicial precedents in India, The Supreme Court of India has been a very keen and effective in interpreting and widening the scope of human rights of children. The Supreme Court, to help the poor children, changed its attitude towards “traditional rule of *locus standi*” and adopted the liberalized rule of standing.⁵ The Supreme Court accepted letters and telegrams, which came by way of public interest litigations, and converted them as writ petitions to safeguard the rights of the poor children and to protect them from hazardous employment. In the *Asiad Workers’* case⁶ the Supreme Court observed that, “the construction work is undoubtedly hazardous for children, though, it is not mentioned in the Employment of Children Act, 1938.” The Supreme Court in this case further stated that, “even the Article 24 of the Constitution of India prohibits the employment of children below 14 years of age in a factory, mine, or in any other hazardous employment.” Therefore, the implementation of provisions of the Constitution of India has to be strictly done by every State Government and it must ensure that the constitutional mandate of article 24 shall not be violated in any part of the country.

In *Salal Hydro Project’s* case⁷ the Supreme Court uphold that the child labour issue was an economic problem and it is not possible be solved merely by legislation, till there is ‘poverty and destitution’ in this country. The Supreme Court highlighted the root cause child labour in Indian Context. The activist

Supreme Court in this case gave commendable suggestions to the State of Jammu & Kashmir to start schools close to the construction sites so as to facilitate the children of workers of the project to attend the school. In another instance, The Supreme Court in *Sheela Barse vs. Secretary, Children Aid Society*⁸ has protected the basic human rights of children who are staying in the Observation Homes. The Supreme Court in this case directed Maharashtra state Government to take quick action to implement the law, act upon the requirements as per the Constitutional Provisions and directions made by the High Court of Bombay and also by the Supreme Court of India. In the noted case, *M. C. Mehta Vs. State of Tamil Nadu*⁹ emphasized on emphasized on the implementation of the Child Labour (Prohibition and Regulation) Act, 1986. It strengthened to provide the free and compulsory education for all children until they attain the age of 14 years as per Article 45 of the Constitution of India. Along with that, The Supreme court also directed that, the offenders of the Child Labour (Prohibition and Regulation) Act, 1986, have to pay a compensation of Rs. 20,000 for every child employed. It has to be deposited in district-wise fund known as “Child Labour Rehabilitation-cum-Welfare Fund”, it will be used only for child purpose. In addition

⁵ Pritam Kumar Ghosh, *Judicial Activism And Public Interest Litigation In India*, 2013 GJLS Vol.1, No.1,p.79

⁶ *People's Union For Democratic Rights And Others Vs. Union Of India & Others*, AIR 1982 SC 1473

⁷ *Labourers Working On Salal Hydro Electric Project vs. State Of Jammu And Kashmir*, (1984) 3 SCC 538

⁸ AIR 1987 SC 656

⁹ (1996) 6 SCC 756



to that, the court also directed that the parents, guardians, family members of the child should be given a job in lieu of the child.

5. CONCLUSIONS AND SUGGESTIONS

Children have been considered as most valuable human resources of nation. The potential any social welfare state depends upon growth and development of children. The great poet Milton said "Child Shows the man as morning shows the day". It is not only the question of rights of children but also the duties that needs to be discharged by parents, society, private & public sectors for augmentation of child rights. they are the true custodians and messengers of culture, traditions, ideology, philosophies. Children are the future custodians and torch bearers of the Society: they are the messengers of our knowledge, cultural heritage, ideologies and philosophies. Children are really future components in the form of great teachers, scientists, judges, rulers, doctors, planners, engineers, politicians on whom the entire society founded (rests). Unfortunately millions of children are deprived of their childhood due to issues like child labour, due to which they are deprived from exercising their right to education and thereby they are subjected to exploitation and abuse.

In this regard, the author wants to put forth some suggestions for promotion and protection of child rights from menace of child labour to fulfill its commitment of human rights. In school, the child should make aware of their rights and duties by appointing a councilor, so it becomes easy for them to identify injustices and to approach to particular authority. The help line numbers in simple form shall be made available for children for 24x7 at local,

rural areas. The police machinery shall be more concerned and voluntarily responsive towards sticking problems of child labour. Child awareness campaigns needs to be

organized to encouraging individuals towards issues related with children. Coordination among commissions and Non-governmental Organizations is required for more efficient outcome towards reducing child labour. Documentations of different laws, policies, and schemes shall be made available in local, regional languages, so that it will reach upto grass-root levels. In addition to that, more empirical research is required to understand impact of child advocacy initiatives.