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Child Labour - A Human Right challenge

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ABSTRACT

Children are the greatest gift to the humanity. Neglecting children means loss to the society as a whole. Every form of work, whether hazardous or not, entails some degree of stress. Hazardous work cripples the health, phyche, and personality of a child, while non-hazardous work connotes other forms of deprivation, such as denial of access to education and denial of the pleasurable activities associated with childhood. A human rights perspective is necessary for a fuller understanding of child labour, as it focuses on discrimination and exclusion as contributing factors. The most vulnerable groups when it comes to child labour are often those subject to discrimination and exclusion.

KEYWORDS : Child labour , hazardous work, employment, fundamental right, exploitation , abuse, Poverty, health hazards, discrimination

Introduction

The most innocent phase in human life is the childhood. It is that stage of life when the foundations are laid for a successful adult life. It is that period of life when we have no care in the world, the playing, fun loving period of life. But this is not the situation for many hapless children around the world. The future of every nation depends upon the status of the child. If children are deprived of their childhood – socially, economically, physically and mentally – the nation gets deprived of potential human resources for social progress, economic empowerment and peace and order, social stability and good citizenry.[1]

Child labour may be regarded as the denial of the Childs right. It is one of the most pressing social problems which the international community has been facing. According to the Census 2001, there were 12.7 million economically active children in the age-group of 5-14 years. The number was 11.3 million during 1991 and 10.7 million in 1971, thus showing an increase in the number of child labourers.[2]

Millions of children are engaged in hazardous situations or conditions, such as working in mines, working with chemicals and pesticides in agriculture or working with dangerous machinery. They are everywhere but invisible, toiling as domestic servants in homes, labouring behind the walls of workshops, hidden from view in plantations. The fact remains that there should be a minimum age for the entry into work force whether it be for wages or for a living, or otherwise.[3]

International perspective

International labour standards define child labour by its consequences: it encompasses work that is mentally, physically, socially or morally dangerous and harmful to children, and interferes with their schooling. UNICEF defines child labour as work that exceeds a minimum number of hours, depending on the age of a child and on the type of work. [4]

18thInternational Conference of Labour Statisticians held at Geneva[5] have held that Child labour (slated for abolition) should reflect the engagement of children in undesirable activities and could fall into the following categories:

(i) Labour that is performed by a child who is below the minimum age specified for that kind of work and that is thus likely to impede the child's education and full development.

(ii) Labour that jeopardizes the health, safety or morals of a child, either because of its nature or because of the conditions in which it is carried out (known as hazardous work).

(iii) The worst forms of child labour other than hazardous work which are internationally defined to encompass children (persons below 18 years of age) in slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, their use in prostitution and pornography, and illicit activities.

International Labour Organization [6] has estimated that in 2004 there were 218 million children trapped in child labour of whom 126 million where in hazardous work. The bulk of them are from under developed countries with Asia's contribution as the maximum. A vast majority of the juvenile workers are employed in the informal sector, where they are subjected to prolonged hours of hard labour for minimal wages and without weekly off or proper rest intervals.

The ILO adopted an international standard aimed at the elimination of child labour at its first Conference in 1919, and has continued doing so in a progression culminating in its most recent standards establishing an immediate obligation to eliminate the worst forms of child labour. Principle 9 of the UN declaration of the rights of the child (1959) envisages a check on the exploitation of the child.

The International Labour Organization's International Programme on the Elimination of Child Labour (IPEC), founded in 1992, aims to eliminate child labour. It operates in 88 countries and is the largest program of its kind in the world. IPEC works with international and government agencies, NGOs, the media, and children and their families to end child labour and provide children with education and assistance.[7]

India

In India, the human rights as enshrined in the fundamental rights and directive principles of constitution of India (Article's 15, 21, 21-A, 23, 24, 39) advocates elimination of child labour. In *Peoples Union for Democratic Rights v. Union of India*[8] the Supreme Court directed the State Government to take necessary steps to incorporate construction work as hazardous occupation. This is also in consonance with the requirement of Convention No.59 adopted by ILO and ratified by India. More over Article 24 which provides that no children below 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Union and State Governments must ensure that this constitutional mandate is not violated in any part of the country.

The above decision was reiterated in the case of labourers working on Salal hydel project[9] and directed that Central Government should persuade the work men to sent their children to a nearby school and arrange not only for the school fee to be paid but also provide free of charge books and other facilities such as transportation.

In 1979, Government formed Gurupadaswamy Committee to study the issue of child labour and to suggest measures to tackle it. It observed that as long as poverty continued, it would be difficult to totally eliminate child labour and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The Committee felt that in the circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and ameliorate the conditions of work in other areas. Accordingly the Child Labour (Prohibition and Regulation) Act was enacted in 1986, to specifically deal with the situation of the child labour. The Act prohibits employment of children in cer-

tain specified hazardous occupations and processes and regulates the working conditions in others. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the Act. A National Policy in Child Labour was formulated in 1987. The Policy seeks to adopt a gradual and sequential approach with a focus on rehabilitation of children working in hazardous occupations and processes in the first instance.

In *M.C.Mehta V. State of T.N.*[10] the Supreme Court held that the children below the age of 14 years cannot be employed in any hazardous industry, mines or other work and issued certain directions for the abolition of the child labour. Directed that a sum of Rs. 20,000/= should be paid by the employer of the hazardous industry where this child was employed. It should be utilized only for the benefit of the child alone. Government should ensure that an adult family member should be given employment instead of the child who is working in hazardous industry.

By distinguishing between hazardous and non-hazardous forms of labour and identifying certain occupation from which children are prohibited from working leaves out a wide range of activities that children can be engaged and this continued to be exploited and abused. Large scale exploitation and abuse of children employed in domestic work and hotels are examples. On October 10th 2006, the notification made by the Ministry of Labour came into effect thereby banning children from being employed as domestic servants, workers in dhabas, restaurants, hotels, teashops, resorts, or other recreational centers etc.

Causes

Ignorance is one of the main problems - ignorance on the part of the parents who believe that with the children working, poverty will be eradicated - ignorance on the part of the children who do not know their rights. The working conditions of the children are inhuman and the incomes given are also meagre. A large percentage of children start working because of being orphaned rejected by parents or because of broken families and other domestic problems.[11]As they are abandoned they have no other option but to work for their survival.

Poverty is the fundamental cause of child labour. Children living in the poorest households and in rural areas are most likely to be engaged in child labour. Gender plays a significant role in determining the different types of work done by girls and boys. For example, girls predominate in domestic work, while boys are heavily represented in Millions of girls who work as domestic servants are especially vulnerable to exploitation and abuse. The situation is made worse when, as for domestic work in many countries, is excluded from regulation. Children are employed mainly to supplement the family income when it has not been sufficient to meet the requirements of the family. Children were taught a traditional craft at a very early age to make them proficient in that job.

Inadequacy of the legislative system more than that, its insufficient enforcement is the main reasons for the persistence of child labour. Thus, child labour is not only an economic compulsion of poor families; it is also the consequences of extreme social and economic exploitation. Girls, ethnic minorities and indigenous and tribal peoples, those of low class or caste, people with disabilities, displaced persons and those living in remote areas are the most affected.

Apart from health hazards, working children suffer from the incidence of mal-nutrition and under nourishment. They are also easy victims to the anti- social activities like black marketing, smuggling, theft, drug addition, drug peddling, prostitution, terrorist activities, etc. Illiteracy and ignorance of the parents and their attitudes towards educating the child is also responsible for the child labour. Rate of illiteracy among these child labours are very high as they go for work during the period when they have to be provided with compulsory education as envisaged by Article 21-A of the Constitution and the Right of Children to Free and Compulsory Education Act, 2009. It is the duty of the State to ensure that every child is in school. It is essential that there should be a comprehensive plan to withdraw children from work and mainstream them into schools.

Conclusion

Unless child labour is eliminated completely, there is a need to take progressive measures aimed at regulating and humanizing working conditions of children. There by these young earners should be provided with some protection against conditions which hamper their physical and mental development, and deny them better educational and job opportunities. These measurers include the adoption and enforcement of protective labour laws and improvement in the working conditions under better welfare facilities. Labour often interferes with children's education. Ensuring that all children go to school and that their education is of good quality are key to preventing child labour. Widespread awareness should be created among the people against child labour then only we can prevent this menace and save the future of our world.

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