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The Human Rights Violations with Special Reference to the Rights of Children: Reasons and Remedies

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ABSTRACT

It is evident that the practise of child labour in society would deprive the child of his fundamental human rights; his right to education and learning; his right to entertainment and to communicate with peers, as well as his right to enjoy the beauty of the world around him and to develop a rounded personality. Children drawn to the labour force do not choose to work at such an early age themselves. They are rather compelled by certain family and social circumstances to join the labour force against their will. Socioeconomic compulsion, such as poverty, unemployment of adult family members, etc., can be characterised as the circumstances that bring minor children to work in the labour force. It is the violation of human rights but these children or their family members are even not aware about any such rights. Thus, the present paper aims to identify the various reasons for child labour and puts forward the remedies.

Key Words: Human Rights, Law, Rights of Children, Child Labour, Remedy



Introduction

Children's rights are the human rights with particular attention to the rights to care and protection, including the right to have access to both biological parents, human identity, and the basic needs for food, education and health care. Defining children's rights ranges from their ability to autonomously act to the enforcement of being physically, mentally, and emotionally free from abuse, although what constitutes abuse is a matter of debate.

Even though child labour is illegal as per the human rights act, the employment of children under the age of fourteen continues in Indian and across the globe. However, it is notable that the use of children in the workplace is sometimes done out of sympathy rather than an exploitation of children. Employers often make



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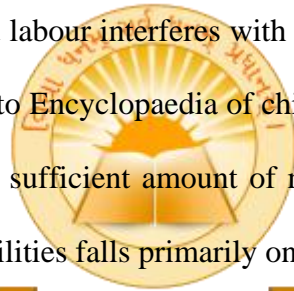
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false medical certificates in order to avoid government regulations and retain children. Child labourers are often the children of impoverished urban areas. The underclasses are victims of societal injustice. There are a majority of child labourers that are girls that belong to various minority groups such as scheduled castes and scheduled tribes.

Child labour is an evil that refers to the harmful effects on a child's personality and their right to an education. Children are employed in hazardous occupations such as matchmaking factories, stone crushing, building, and hotel service activities, which can have a negative impact on the psychological development of children.

Children's employment affects their normal activities. Early employment of children affects their development as a person. The use of child labour interferes with their complete physical, educational, social and recreational development. According to Encyclopaedia of child labour, "one of the major problems with child labour is that parents do not earn a sufficient amount of money to provide for their children's basic needs. The burden of household responsibilities falls primarily on the female child. (2)



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Rights of Children

As per the law and human rights, the child labour is illegal and prohibited. There are several rights for children prescribed by the Government to stop child labour activities. It is very important to understand those rights before analysing the reasons for violating these rules or rights.

- **The Child Pledging Act, 1933**

The aim of this Act is to eradicate the commitment of parents to young children. According to this Act, any agreement entered into by parents to pledge oral or written children is void. Any person who



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employs a child under the age of fifteen is responsible for fines of up to Rs.200/-. This Act has also been extended to Jammu and Kashmir since September 1st, 1971.

- **The Employment of Children Act, 1938**

This Act prohibits the employment in certain occupations of children under 15 years of age, such as the transport of passengers, goods or mail by rail, and the handling of goods in ports. This Act prohibits the employment of children under 15 years of age in the manufacture of Bidi, carpet weaving, cement production, including cement bagging, cloth printing, dyeing and weaving, match manufacturing, explosive and fire work, mica cutting and splitting, tanning and wool cleaning.

- **The Factories Act, 1948**

The Factories Act, 1948, prohibits children under 14 years of age from being employed. A child over the age of fourteen can only be employed in a factory if he is certified by a qualified surgeon. Under this Act, an adolescent with a fitness-to-work certificate can be employed for four and half hours per day with a spread over five hours, including the remaining interval. It is forbidden to employ children at night. During the following year, all child workers who have completed 240 days of continuous service in a factory during a calendar year should be provided with leave facilities at a rate of one day for every 15 working days.

- **The Mines Act, 1952**

No child under 15 years of age can be employed in the mines. For more than four-and-a-half-hours per day, even an adolescent cannot be employed above ground in a mine.

- **The Plantation Labour Act, 1951**



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This Act prohibits the employment of children in plantations below the age of 12 years. No adolescent person between the ages of 15 and 18 may be permitted to work on any plantation (Section 26) unless a qualified surgeon certifies that he is fit to work. The given certificate is valid for a year only.

- **The Merchant Shipping Act, 1958**

This Act regularises children's employment on ships registered in India. This Act prohibits the employment on ships of children under the age of 15 years. This Act also prohibits young people under the age of 18 years from being employed as trimmers and stockers.

- **The Motor Transport Workers Act, 1961**

In any motor transport undertaking, this Act prohibits the employment of children under the age of 15 years. Unless a certificate of fitness is given by a qualified surgeon, even adolescents are not allowed to work as transportation workers.

- **Gurupadaswamy Committee, 1979**

Set up in 1979, the Gurupadaswamy Committee on Child Labour was further evidence of the nation's determination to launch concrete policy measures for the protection of working children. The report, both analytical and comprehensive, addressed in detail questions such as the dimensions of child labour, the status of legislation and its implementation, and child labour welfare and training systems. The study also conducted a number of inquiries to determine the views of workers, employers and the government on issues such as what child labour is, what drives children to work, what occupations children are employed in, and why child labour is preferred.

The Supreme Court's Judgement on Child Labour



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On 10 December 1996, the Supreme Court of India delivered a historic judgement on the question of child labour. On the petition of noted environmentalist M, a three-member bench of the Court delivered its verdict. C. Mehta (No. 465 of 1986) which sought to include the power of the court under Article 32 of the Indian Constitution to grossly violate Article 24 by the Sivakasi match factories which are notorious for the employment of children.

The Court observed, “By now (child labour) is an all India evil, though its acuteness differs from area to area. So, without a concerted effort, both of the Central Government and various State Governments, this ignominy would not get wiped out. We have, therefore, thought it fit to travel beyond the confines of Sivakasi.” The major points of the judgment are as follows:

The family must be provided with an alternative source of income for child labour. In accordance with the provisions of the Child Labour (Prohibition and Regulation) Act, 1986, child labour employers must pay compensation of Rs. 20,000 for every child employed. This would be deposited in the Rehabilitation-cum-Welfare Fund of Child Labour. Instead of a child working in a factory or mine or any other hazardous work, the State must provide employment to an adult in the family.

In the absence of an alternative job, the income earned on the Corpus Fund has to be paid to the parents/guardian, the proposed amount being fixed for each child at Rs. 25,000. If the child is not sent for education, the payment will cease. The employer will bear the cost of education in the case of non-hazardous employment. The State contribution/grant for each child employed in a factory or mine or any other hazardous job is fixed at Rs. 5,000. The sum is deposited in the fund referred to above.

Article 24 of the Indian Constitution provides that a child under the age of 14 should not be employed in any work at any factory or mine or in any dangerous employment. Children in India are legally permitted to work in small-scale industries, although their employment in dangerous work is supposed to be



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restricted. In the latter half of 1986, the "The Child Labour (Prohibition and Regulation) Act" came into force. In the cotton industry, it listed a specific process as being prohibited for children under the age of fourteen with the provision that such a prohibition would not apply to those children working as part of family labour or working in any state-funded or state-supported institution.

The issue of child labour attracted public attention and debate in India for the first time in 1985. In the past, government-appointed committees have been appointed to examine the issue of child labour and make recommendations; but these committees have neither received media coverage nor publicly discussed their recommendations. The occasion for the debate was the drafting by a Non-Government Organization (NGO) based in Bangalore town of a Bill dealing with child labour. In short, the group argued that poverty was the main cause of child labour, and attempts should be made not to prohibit such work, but to regulate the conditions under which children work.

Reasons for Violation of the Rights for Child Labour

There are various reasons for violation of rights made to prevent child labour. The employers are responsible for this as they hire under age children on work so they can work for the maximum hours in low wages. If they hire an adult, they will have to pay more wages. Thus, it is one of the prime reasons. There are also other factors on the side of children and their parents like lack of awareness and poverty etc hence they are forced to violate the rules. Some of the major reasons are as discussed below:

Poverty

The exploitation of child labour was due to household poverty. The households' economic needs push the children to work. As children are cheaper, they are preferred by employers.

Gender Discrimination



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In India, boys are preferred to girls in households. As a result, the girl child, particularly in the poorer segment of society, is denied access to educational and occupational opportunities. Traditionally, the man is seen as the bread winner in our society and the woman as the home maker. Tradition has ignored women's education and has not visualised the training of girls for anything more than routine domestic chores and child bearing responsibility.

Socio-Cultural Disparities

There were also socio-cultural disparities that contributed to child labour. To the well-endowed groups in power for exploitation, children from specific racial or social groups are attracted. Kids from certain social groups are being sold.

Criminality

From time immemorial, there has been child labour in India. Kids are manipulated by criminal syndicates and individuals to sell drugs, steal and commit other offences. It is linked to corruption that collides with criminal elements within national systems and law enforcement authorities. The exploitation of child labour is the consequence of such shortcomings and related vested interests.

Remedies to Prevent the Violation of Children's Rights

- **Awareness Raising Activities**

The keystone to prevent or eliminate child labour and violation of rights is awareness-raising. People need to know about child labour, especially its worst forms, and why both the children concerned and society as a whole are harmful. They also need to understand the benefits of education and how the fight against child labour can help. In many cases, children work because their parents and other adults also work



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as children in their communities. The additional income earned from the child's job may be needed by the family. Parents may not see the value of education, having been deprived of it on their own, or schools may not be available. Projects need to identify effective ways of informing communities of their detrimental effects and of actions that can be taken to protect their children and help them develop their full potential, whatever the underlying reasons for child labour. It is often most effective to use approaches that allow the community or other stakeholders to reach consensus on the dangers of child labour and arrive at their own definitions that are in harmony with the law and the rights of children in the face of resistance or the feeling that external values are being imposed. Distinguishing acceptable child work from harmful child labour is particularly important.

To different individuals or organisations, awareness-raising may mean different things. It is a means of alerting specific groups and the general public to the existence of child labour, to the harm it does and to the urgent need to address it, including through the promotion of education, in this context. In order to enhance mutual understanding and mobilise communities and wider society to bring about the necessary change in attitudes and behaviour, awareness-raising is a two-way street, promoting communication and information exchange. Information provision, communication, education, and training are the basic forms of awareness-raising, preferably with the direct involvement of the target audience. Although awareness-raising refers to mobilisation at the cognitive or emotional level, it can also contribute to practical changes by increasing the knowledge and abilities of people.

- **Capturing the Attention of Stakeholders**

First, this will require an analysis of the situation in the targeted community with regard to child labour and education and the identification of groups of stakeholders. Meetings with each stakeholder group, in particular children and adolescents and formal and non-formal educational institutions, can then be set up



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to evaluate prevailing attitudes and behaviour and to determine the content and format of messages accordingly. A prerequisite for setting up a social relationship is to capture attention.

- **Improving Public Knowledge**

Once interest has been generated, a dialogue with the stakeholder groups can be established in order to exchange information and improve their knowledge and understanding of the issue. The process needs to be set in a context that is relevant to the interests of the stakeholders. This process of mutual learning leads to better-informed decision-making and builds confidence among potential partners, such as children and adolescents or local and central authorities.

- **Enhance Social-Skills**

Through information-sharing and dialogue, awareness-raising can break down social and other barriers between stakeholder groups. Stakeholders are able to express themselves more freely, both as individuals and collectively, once these barriers have come down. Changes in attitudes and behaviour lead to the process of generating solutions to social issues that affect the community as a whole. Furthermore, greater interaction between the stakeholders makes it possible to forge new relationships or strengthen existing ones. A process of awareness-raising ideally aims to boost society's dedication beyond the simple acquisition of knowledge and skills. It can be described as an empowerment process in this respect. With a view to generating social action to bring about change and to building further partnerships to ensure the sustainability of results, new relationships should be developed.

Conclusion

In India, there are around 11 crore children working as a child labour. Poverty, migration, gender discrimination and criminality are among the various causes of child labour. The carpet weaving industry



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tops the list of industries employing children in India with a high number of child labour, followed by silk and cotton hosiery industries. Article 24 of the Indian Constitution provides that a child under 14 years of age should not be employed in any factory or mine or in any hazardous occupation. The government has provided the rights to prevent these types of injustice with children yet it is a major issue in the society. Hence, it requires some more awareness by one-to-one communication and camp as suggested in the list of remedies.

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