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Rights of Children in India: Problem and Prospects

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Abstract:

In the Earlier part of the 20th century, 'Child Rights' remains a serious problem in many parts of the world. India, is not an exemption, even it is blessed with the important legislations, constitutional provisions and remarkable judgments on child rights, which is always build on the platform of relevant regional and international mechanisms and international standards of behaviour towards children, still it fails while addressing and eliminating the issues of children mostly from the deep roots of our Indian society.

Here in this Paper researcher suggest some innovative measures through a close understanding of the socio-cultural Identities of the Indian Society, which helps to eradicate the 'extreme roots of poverty', charging means (Economic & Social) towards child labour and child trafficking, with the strong support of Constitutional Norms and Innovative socio-educational nuances in the Indian society. These measures are succeeded to a large extend in the 'Rurban' areas of India.

Keywords: Dynamics of Child labour, extreme roots of Poverty, Socio-educational nuances, Constitutional Norms

1. Introduction

India being the second largest populated country in the world has a huge contingency of children. The population of children in India is approximately thirty-five million of the total population. Poverty often cited as the most common ground for the violation of the rights of children in India¹. Moreover, lack of quality education and discrimination especially towards the socially backward people of the country constitutes as a major threat to the life of children². However, lack of proper administrative implementation of the various schemes, legislative and constitutional dictums constitute as a major threat for the augmentation of the life and liberty of children as subjects of the society. Millions of children in today's world undergo the worst forms of child labour which includes Child Slavery, Child prostitution, Child Trafficking, Child Soldiers. In this modern era of material and technological advancement, children in almost every country are being callously exploited³.

2. Problems and Prospects Faced by the Children in India

2.1. Child Labour

It is one of the deadliest cause which has to be addressed and eliminated from the deep roots of our Indian society, especially in rural areas. India stands with the highest number of child labourers under the age of 14 in the world, With an estimated 12.67 million children engaged in hazardous occupations (2010 Census India)⁴. However, poverty is often cited as the cause underlying child labour, various factors such as, discrimination among the society towards children especially towards lower strata, social exclusion, as well as the lack of quality education, existing parents' attitudes and perceptions about child labour and the role and value of education need also to be considered⁵. In states like Bihar, Mizoram, Rajasthan and Uttar Pradesh, 60 per cent or more girls are dropped out before completing their five years of primary education⁶.

¹United Nations Report (2010): Rethinking Poverty Report on the World Social Situation, published by Newyork press, further details pls see: <http://www.un.org/esa/socdev/rwss/docs/2010/fullreport.pdf>

² Shastri T N, "Human Rights of Vulnerable & Disadvantaged Groups" (2012) (published as a course book by university of pune)

³ Srisha: Issues on children facing in India: Published as, e source on May- 16-2010

For more details, pls visit <http://www.trueindia.org/blog/2010/05/16/103/#comments>.

⁴ Census of India 2011, further details pls visit <http://censusindia.gov.in/2011-common/censusdataonline.html>

⁵ J. P. Singh: Problems of India's Changing Family and State Intervention (2012)

⁶ UNICEF report: on child labour published by Dawn Mission Truston 20 Oct 2009, further reference pls go through e source: <https://www.ammado.com/community/110475/articles/11752>

It's the high time to ensure specific measures to control child labour, if not Many more children will be the victims of hazardous and dangerous jobs, which leads to high injury or even death. In the coming decades of our country, many more, hundred-thousands of people will join the India's workforce, how many will have to work at the early age, destroying their health and obstructing their education, let's find a '4 step solution' for this problem

2.1.1. Economic Development – (Raised Family Incomes and Living Standards)

Ensuring programs like *kudumbasree* and *M.G. NREGA programs*, which will benefit the larger population and ensuring basic pay and basic work for them, which will lead to a better economic living standard in our country.

2.1.2. WARR Based Education (Widespread, Affordable, Required and Relevant)

Education policies and programs should implement in unique way, according to culture, tradition, values and more over ensuring needs for the basic society,

- Wide spread Skill development program: will ensure basic identity of work and a minimum pay to almost all elder members of family who are illiterate and have no access to education.
- Opening and ensuring separate quota for needy children: Most of the government schools are providing quota for poor and needy students only in official papers, however there should be an accountability among the part of PTO (Parents-Teachers Organisations) which will ensure to sensitise both the parents and students about the need of education, and how it will lead to a better life and eradicate poverty in our country.
- Required unique educational setup: Our educational system has to changed in such a way, if students are not in a position to attend schools especially children of migrant workers, there should be mobile school programs can be conducted with the help of various NGO's, it has been successfully implemented in Madhya Pradesh, Karnataka by some NGO's.
- Relevant Measures to be taken: Relevant educational programs have to be implemented with various differences, according to need of a society, a program relevant in Kerala or Karnataka may not succeed in Northern states, we have to change the structure of programs and its fruit should reach to maximum,
- Special Awareness and Trainings should be provided to various teachers, NGO's and administrative who are part of this programs
- There should be a periodical analysis to check out the extend and reach of this program.

2.1.3. Enforcement of Anti-Child Labour Laws (Along With Compulsory Education Laws)

Laws should be enforced with the pulse of society, an employer who exploit the child by giving very minimum amount than the basic pay, should be penalised and punished. Fundamental rights to every children article 21 A, free and compulsory education to all children between 8-14 years of age, this should be implimentative in society according to above norms, there should be social justice towards the children at lower strata.

2.1.4. Changes in Public Attitudes toward Children that Elevated the Importance of Education

Creating a sensitization among the society and offering some fellowship to the poor children on the meritorious and needy basis will create an energising among the parents, in sending their children to school., which is successful in rural areas of Kerala in 1980's and 1990's.

2.2. Child Trafficking

The nature and scope of trafficking range from industrial and domestic labour, to forced early marriages and commercial sexual exploitation. Existing studies show that over 40 per cent of women sex workers enter into prostitution before the age of 18 years⁷. Moreover, for children who have been trafficked and rescued, opportunities for rehabilitation remains scarce and reintegration process arduous.

The worst sufferer among working children are those who are employed for household work and commonly referred as child domestic workers (CDWs). For a long time, the official agencies responsible for protection of children denied their existence.

Our constitution prohibits human trafficking and successive governments have formulated laws intended to tackle it, with the primary legislative tool being the Immoral Traffic (Prevention) Act 1956, However these laws are either weak or inadequately enforced. Children's vulnerability and exposure to violations of their rights remains widespread and multiple in nature⁸. But the real cause of worry is UNIFEM's report which says s that 40 % of India's police officers are unaware of child trafficking problem. However due to constant campaign by the NGOs supported by international agencies (such as Misereor, Bread for the World, Christian Aid, Oxfam, CIDA, Novib, Caritas, CRS, DANIDA etc.), now the Government has banned employment of children's below 14 years as domestic help from 10th October 2006. It is reported that in Metropolitan cities like Mumbai, Kolkata, Delhi and Chennai majority of domestic help are children particularly girls below 14 years

⁷ Social Problems and Social Legislation: Suresh Murugan 2013

⁸ From the source: Speeches delivered by our Honourable Ex Chief Justice of India at Tamil Nadu State Judicial Academy, Further details pls refer to page no 7 of <http://www.hcmadras.tn.nic.in/cji-speeches.pdf>.

3. Health Hazards Faced by Children in Indian Society

3.1. Infant Mortality

Infant mortality is as high as 63 deaths per 1,000 live births. Most infant deaths occur in the first month of life; up to 47 per cent in the first week itself. While the Infant Mortality Rate showed a rapid decline during the 1980s, the decrease has slowed during the past decade. Maternal deaths are similarly high⁹. The reasons for this high mortality are that few women have access to skilled birth attendants and fewer still to quality emergency obstetric care. In addition, only 15 per cent of mothers receive complete antenatal care and only 58 per cent receive iron or folate tablets or syrup.

3.2. HIV/AIDS- Faced by Children

It is estimated 220,000 children infected by HIV/AIDS and 55,000 to 60,000 children are born every year to mothers who are HIV positive. Without treatment, these newborns stand an estimated 30% chance of becoming infected during the mother's pregnancy, labour or through breastfeeding after six months. There is effective treatment available, but this is not reaching all women and children who need it.

The mobilization and greater involvement of NGOs in programmes for the development of children and women has increased the potential to accelerate the development process in achieving the national goals for children.

3.3. Malnutrition – It Affects Nearly Half of All Children under Age Five in Our Country¹⁰

3.3.1. Solutions for the Health Issues Faced in India

- Social services schemes should be adopted, there has to be contact points to help children and families survive crises, such as disease, or loss of home and shelter
- Family sensitized over control of fertility — so that families are not burdened by children
- Awareness among children and parents about the importance of healthy life preaching in small or big crusades.
- Making children to join the vocational training centres, which should be easily accessible. It will be a powerful, tool to assist children in escaping the poverty trap.

3.3.2. Let's Discuss the Laws Framed in Indian Constitution

The constitution of India prohibits every kind of discrimination of individuals, including children. The major provisions of rights that are relating to the rights of children are follows:

- Article 14 recognizes the equal rights. It empowers the State to make special provisions for the development of women and children.
- Article 19 confers freedom of speech, expression, to reside any part of the country, and move freely which is guaranteed equally to every child.
- Article 21 guarantees free life and liberty, and make it obligatory that free and compulsory education be provided to every child in the age group of six to fourteen years.
- Article 23 prohibits traffic in human beings and abolishes bonded labour which includes women and children of our country.
- Article 24 bans the employment or recruitment of children below 14 years in any factory or mine or heavy and harmful industries to the health and growth of children.

Apart from these rights, it confers the *remedial measures* through judiciary for the violation of *any of the rights conferred on its citizens included children-* through judicial intervention through *Articles 32 and 226* of the constitution.

3.3.3. Let's see the Directive Principles of State (Part IV (A) Indian Constitution)

Guidelines towards the state for the better development and being of every child in our society.

- Article 39 (e) directs the state to evolve policy formulations not to abuse the tender age of children, and economic incapacity should not adversely result in their employment in any avocation, especially below the age of fourteen years in no circumstances.
- Article 39 (f) of the above article imposes an obligation on the state to provide opportunities and facilities for children to develop in a healthy environment. It further directs the state that life, liberty, and childhood be protected from any kind of exploitation, which includes moral or material negligence.
- Article 45 provides for care of early childhood, and compulsory education for all children until the child attains the age of six years.

⁹ Unicef (2011) Health Issues in India, Further details pls see the <http://www.indiabook.com/health/>

¹⁰ Anupam Sharma "Poverty and stats" January 2013: Published as e source in Global Issues, for more details pls refer <http://www.globalissues.org/article/26/poverty-facts-and-stats>

- Article 46 further directs the state to take special efforts to promote the rights and interests of children belonging to social, educationally backward classes. In no way their economic and social status, adversely affect their rights.
 - Article 47 imposes an obligation to raise the nutritional standards of living and provide easy public access to health facilities.
 - Article 51 (c) imposes a duty on the state to promote and respect international commitments and obligations. As signatory to number of conventions, covenants and other documents on international human rights law, it is the duty of the state to discharge its obligations in the promotion of children's rights through national legal framework.
- According to Article 51 (A) sub clause (k) imposes the fundamental duty on the parents or wards to provide education to their children between the age group of six to fourteen years compulsorily.

4. Role of National Commission for Protection of Child Rights

According to many reports of international agencies and non-governmental organizations, India is the major country compared to many of the under developed countries including the African region, where in the plight of children is worse in enjoying their rights as subjects of the State¹¹. The main reason is the inefficiency of the administrative wings of the state to properly implement and monitor the situation, apart from poverty, which is another significant factor that deprives the rights of children.

The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005. According to the provisions of the Act, a child is defined as a person below the age of 18 years on the lines of the *United Nations Child Rights Convention* definition¹². The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and the UN Convention on the Rights of the Child¹³. The commission has the power of civil court in ensuring their duties and responsibilities towards children.

5. Conclusion

Since Independence, until today, the government of India and the States adopted a number of schemes for the promotion and welfare of children. It has established a number of mile stones nationally and internationally to discharge its constitutional and international obligations in promoting the best interests of children. However, due to increasing population, poverty etc. millions of children are not in a position to have a satisfied meal once in a day. Further, the adverse sex ratio of female population is a cause for concern. Apart from the state and a few non-governmental organizations, the people of the country also need to discharge their bit of services for the augmentation of the children's rights is necessary.

We the people of the country take a pledge to strive hard to extend their helping hand to one of the vulnerable and most effected populous of the country, namely children, the future generations of the polity in order to wipe out every tear that comes out of the eyes children. However, here we suggest some measures to be implemented for the larger welfare of our society and to see the childhood back to our children.

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¹¹ United Nations: Social Justice in an Open World the Role of the United Nations: 2006, New York Press

¹² Shubangi Rathi : Role of National Commission for the protection of child rights :2013, for more details, pls refer E source : <http://shubharathi.blogspot.in/2013/04/role-of-national-commission-for.html>

¹³ Ibid.,

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