Protection Of Children From Exploitation And Human Rights Perspective

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Abstract:
Children are important assets of any Nation as they are the future citizens. The destiny of country depends directly on how well its children are looked after. The children being an important asset, every effort should be made to provide them equal opportunities for development. Thereby they become robust citizens physically fit, mentally alert and morally healthy which results in overall growth of the children.
But unfortunately children exploiting everywhere particularly in the developing nations like India. There are number of reasons for the exploitation of children mainly poverty, illiteracy, unemployment and different cultural practice of parents, disrupted marital relations and other. Childhood is the most important period in the human life. The Children should be protected from all forms of neglect, cruelty and exploitation, then only they will get better future in their life. Mankind owes to the child the best it has to give. The child shall enjoy the special protection and shall be given opportunities and facilities by law and other means to enable him to develop physically, mentally, morally, spiritually and socially in the health and normal manner and in the conditions of freedom and dignity.
Universally, in 1948 itself, the Human Rights declaration had proclaimed the need of special care and assistance for children. The UN convention on the Rights of the Child, adopted in 1989, proclaimed in Article 6 that every child has the inherent right to life and that the States should ensure, to the maximum extent possible, the survival and development of the child. Article 32 says that, subject to the extent of available resources and within the framework of international co-operation, children have to be protected from exploitation of all forms.
The constitution of India and various other enactments also have the number of provision protection of child from the exploitation. The Governments and NGOs and number of organizations are working for protection of children from the exploitation in different forms, the civil society have to make an effort on prevention of exploitation children. This research paper is an attempt to focus on child rights and various forms of exploitations, to discuss the National and International concerns.

Introduction
Ever since human civilization came into existence there have been inherent inequalities in the society and exploitation of man by man was the natural outcome of these inequalities. The Children are the one of the physically weaker sections, so, the children are exploiting physically, mentally, economically, emotionally and other forms particularly in the poor and developing nations. The exploitation child leads to the violation of human rights of the children. There are number of provisions for protection of human rights of children at international and national level, but there is proper implementation because respected countries there is no seriousness the implementation of the provisions, this negligence darken the life of the children.
Prior to the 19 century, the legal expression of the harsh reality of life of most of the children was the idea of the child as a human chattel.’ However, the notion of distinctive set of the rights for the child began taking shape in the aftermath of the social reforms that followed close on the heels of the Industrial Revolution and the consequent urbanization. As a result of the changes witnessed in the patterns of social and family life, the child now came to be viewed as a feature having a distinctive identity. The Non-Governmental Organizations (NGO’s) played on important role in giving shape to rights of child. The whole process started in the early decades of 19th century, when some British
women in Cambridge made a survey of charitable societies at that time to determine what protection was provided to children. These pacifist women worked throughout World War-I (1914-17) to alert the general public to the plight of children in war-affected areas. A pioneering work in this direction was performed by Eglantyne Jebb, the founder of the "Save the Children" movement. She recognized that the "Save the Children's" practical work on ground needed to be complimented by the much wider support which could come from a heightened awareness of adult obligations towards children. "After the World War-I, the vigorous and tireless lobbying of "Save the Children" movement led to the recognition of rights of child in the League of Nations. The five-point text drawn up by "Save the Children" movement was taken onboard by the League of Nations and the Geneva Declaration of the Rights of Child was adopted in 1924. This Geneva Declaration recognizes the principle that the childhood is entitled to special care, assistance and safeguards and that the "mankind owes to the child the best it has to give". In 1948, the Geneva Declaration of 1924, was revised and amplified culminating in ten point declaration on the rights of child which was adopted by the United Nations General assembly in 1959. Though the Universal Declaration of Human Rights, 1948, implicitly included the freedom and rights of children, it was believed that this was not enough. This led to the adoption of Declaration of the Rights of Child, 1959. The 1959 Declaration enunciates general principles for the cause and protection of children. The General Assembly called upon the parents, local authorities, voluntary organizations and national governments to recognize the rights set out in the Declaration and to strive for their observance by legislative and other measures.

A working group of the United Nations Commission on Human Rights was set up in 1979 (which goes down in the history as the International year of the Child) to prepare a draft Convention. Governments, non-government organizations, human rights advocates, lawyers, health specialists, social workers, educators and religious leaders from all over the world negotiated the standards in the Convention, over a ten year period.

The prolonged confabulations and parleys carried out by this working group resulted in a consensus document or Child Right Convention (CRC), 1989. This Convention (CRC) is one of the most comprehensive international covenants, touching almost all areas concerning the children. It reflects a new vision of child and argues that children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are subject to their own rights. The CRC offers a vision of child as an individual and as a member of a family and community, with rights and responsibilities appropriate to his or her age and stage of development.

All most all the contributions throughout the world have recognized the rights of the Children and enacted several legislations for the protection of the Child Rights in the consonant with international comments and conventions. The Constitutional rights granted are increasingly being enforced by courts and services of Judgments have been delivered by the Supreme Court of India in connection with their Right to health, Development and protection.

**Definition of child**

Child abuse is one of the most heinous and inhuman crimes against humanity. It means to maltreat a child physically or emotionally. Thus, any commission or omission of an act by a parent which leads to a harm or possibility of harm to the child can be categorized as child abuse. Not only the parents but also those who happen to be in the next circle of a child can be a cause of this ill treatment. According to The Convention on the Rights of the Child, Article 1 defines “the child” as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”.

In the Indian legal system, the child has been defined differently in the various laws pertaining to children. The Indian Penal Code defines the child as being 12 years of age, whereas the Indian Traffic Prevention Act, 1956 defines a ‘minor’ as a person who has completed the age of 16 years but not 18 years. Section 376 of IPC, which punishes the perpetrators of the crime of rape, defines the age of consent to be below 16 years of age, whereas Section 82 & 83 of the IPC states that nothing is an...
offence done by a child under 7 years, and further under 12 years, till he has attained sufficient maturity of understanding the nature of the Act and the consequences of his conduct on that occasion.

**Types of Exploitation**

Ironically, a majority of child exploitation cases occur in the home, school or the neighborhood next door. Child exploitation can be differentiated into four major categories, namely, physical abuse, emotional abuse, neglect and sexual abuse. Child abuse traumatizes a child in various ways. From not providing required environment for a healthy growth, inflicting physical torture, mental trauma to sexually maltreating a child in any possible way, child abuse has many dirty unveiled facets. It may also include not providing required food, shelter, clothing, education and an environment that is necessary for an overall development of a child’s personality.

Physical Exploitation has a wide range. Choking, burning, hitting and striking all comprise physical exploitation.

Sexual Exploitation any kind of sexual association in any form between a child and an adult again results into sexual abuse.

Emotionally Exploitation depraving a child, hurting his self esteem or inflicting any other kind of mental trauma is a physiological abuse against the child.

Causes are ample and also are very important to help fight against child abuse in any given form. Cultural norms, unsuccessful marriage, drug addiction comprise as the main causes of child abuse. Sometimes a child might also be inflicted to abuse in any which form without it being in the notice of the parents, for example, at the school, at the hands of some relative or the immediate neighborhood. The main reasons, though, are generated from the former. An unhappy marriage might yield an outcome which isn’t satisfactory for the spouses and thus the entire frustration can be vented on the child. It can be both, intentional or unintentional. In India, many gruesome incidents of child abuse have been recorded in the past. Ranging from incest, rapes, sexual abuse, digital rape, sodomy, inappropriate touch to sexual assaults, India has a higher category of child sexual abuse than the other kind abuses.

**Causes of Child Exploitation**

In a country like India where over 40 percent of the population is living in conditions of extreme poverty; child exploitation linked with issues. Following are some of the causes of children exploitation.

1) Extreme poverty is the chief cause of children exploitation. The children either supplement their parent’s income or are the only wage earners in the family.

2) Child exploitation deliberately created by vested interest to get cheap labour.

3) Low level of parental education is also an important factor in determining the incidence of child exploitation.

4) A majority of parents prefer to send their children to work rather than to school at the school-going age, primarily on account of their need for a supplementary income.

**Human Rights of Children**

Human rights are universal, but children and youth have certain human rights specifically linked to their status as minors and to their need for special care and protection. The human rights of children include:

- The right to a standard of living adequate for a child's intellectual, physical, moral, and spiritual development, including adequate food, shelter and clothing.
- The right to freedom which includes right against discrimination based on age, gender, race, colour, language, religion, nationality, ethnicity, etc.
- The right to the highest possible standard of health and access to health care.
• The right to a healthy and safe environment.
• The right to education—to free and compulsory elementary education, to readily available forms of secondary and higher education, and to freedom from all types of discrimination at all levels of education.
• The right to protection from neglect and all types of physical or mental abuse.
• The right to protection from economic and sexual exploitation.
• The right to express an opinion about plans or decisions affecting his or her life.
• The right to live in a family environment.

The Child Protection under the Constitution of India

The Constitution of India embodies within itself a number of provisions to deal with a problem of child exploitation.

Article 15(3) says, "Nothing in this article shall prevent the state from making any special provision for women and children."

Article 21 provides for the protection of the life and personal liberty of the people which also includes children. "Rights to life" as interpreted by the Supreme Court is not of a mere animal existence, it implies right to life with dignity.

Article 21 (A) Right to Education: The state shall provide free and compulsory education under the age of six to fourteen years in manner as the may, be law determine.

The Constitution of India vide Article 23 and 24 talks of Right Against Exploitation and guarantees that nobody under the age of 14 shall be employed in hazardous jobs. Not only in India but in other parts of the world as well, there is a definite guarantee to stop child labour. The book discusses provisions of the constitutions of the world as well as the UN documents regarding protection of child labour and application of their human rights.

Article 39(e) and (f): The state shall, in particular, direct its policy securing (e) that the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocations unsuited to their age or strength, (f) that children are given opportunities and facilities to develop on 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 41: The state shall within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness, and disablement and in other cases of undeserved want.

Article 45: The state shall endeavour to provide within a period of 10 years from the commencement of this Constitution for free and compulsory education for all children until they complete the age of fourteen years.

Article 47: The state shall regard the raising of the level of nutrition and the standard of living of its people and improvement of public health as among its primary duties and in particular the state shall endeavour to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health.

Other Legislative Provisions relating to the Protection of Child:
The Child (Pledging of Labour) Act, 1933
The Employment of Children Act, 1938
The Child Labour (Prohibition and Regulation) Act, 1986

International Instruments for the Protection of Child from Exploitation

The United Nation Organization bringing the number of instruments for the protection of children from the various types of exploitations. These instruments play the most important role in the protection of child interests. The UNO are bringing the various conventions, declaration and other instruments for welfare of the child. They are
Universal Declaration of Human Rights, 1948 main provisions relating to child protection are:
   Article 3: Everyone has the right to life, liberty and security of person.
   Article 4: No one shall be held in slavery or servitude, slavery and slave trade shall be prohibited in all their forms.
   Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
Convention against Torture and other Cruel, Inhuman Degrading Treatment or Punishment, 1984.
The Convention on the Rights of Child, 1989 these are the provision play role protection of child from the various exploitations, they are
   Article 32 and 36: Right against Exploitation
   Article 33 Right against sexual exploitation and Sexual abuse
   Article 35 Right against traffic in Children

Protection of Human Rights of Children
In the past, the specific human rights of children were assumed to be met within the broader human rights framework. Although children are; referred to in human rights documents, such references are scattered and had the risk of being overlooked or implemented in isolation. They did not: constitute a coherent body of rights assuring protection and care of children.
Children are a special class by themselves as their needs and aspiration are different from those of adults and, therefore, their rights need particular recognition and protection. Talking about human rights in general but not identifying specific rights of children is not enough to safeguard this group of population or do justice with them. It just renders them 'invisible' thereby making them vulnerable to all sorts of exploitation. It is important to understand that children's rights are to be concerned both with the protection of the individual child as well as with the creations of conditions in which children can develop to their full potential. Children's rights crucially reflect the universal and special status of childhood - a period of rapid change and development during which children experience different vulnerabilities.
Child labour is a universal problem and as a citizen of India we must strive to take stern actions against child labour. NGOs have an important role to play in the elimination of child labour. Government does not have the infrastructure to reach every section of the society and particularly the millions who work and live in remote areas. NGOs can act as a bridge between hard-to-reach areas and the government.
The role of the state in this sphere emanates from the constitutional and legal provisions, as spelt out in various political, administrative and executive decision taken to plan and to regulate the services. The National policies for children, adopted by the Government of India in 1974 reinforce that spirit behind the constitutional safeguards by proclaiming that "The nation's children are supremely important assets. Their nurture and solicitude are our responsibility. The national policy clearly lays down that children who socially handicapped, who have become delinquent or have been forced to take to begging or are otherwise in distress shall be provide facilities for education, training and rehabilitation and will be helped to become useful citizens."
It is relevant to mention here that United Nations adopted a resolution which proclaimed 1979 as International year of the child. The resolution said that there was need to promote children's programme to from an integral part of the economic and social development plans with a view to achieve sustained activities for the benefit of children at national and international levels.
A number of policy initiatives and programmes have been undertaken in this country over the last decade with the basic objective of dealing with the problem of the rapidly increasing number of child workers. The Government has failed to realize the potential of formal primary education as a powerful tool for withdrawing children from work. Child labour is more a rural phenomenon than an urban phenomenon. Due to acute poverty poor families residing in rural areas send their children to urban areas for bread and butter. In urban areas, to survive in a cutthroat competition, manufacturers have lowered the real wages for adult workers in order to employ child workers on low wages.
Judiciary Role in the Protection of Child

The judiciary has very daringly endeavoured to uphold the spirit of child welfare legislations by consistently reprimanding everyone who has violated their spirit. The court has, time and again, reminded the State to direct its policy in consonance with the mandate of National Charter where child have opportunities and facilities to grow in a healthy and dignified manner. The Supreme Court protected child interest through the various land judgments. It may be pointed out that though the courts have taken much pain for securing social justice of children from time to time, but it has certain limitations. It cannot monitor every welfare scheme as it is over burdened with work. It is, therefore, for the Executive to complete the task by implementing the judicial mandates in true letter and spirit to get, the desired results. And without its active cooperation, we cannot usher in a new social order in which justice, social, economic and political and equality of status and opportunity can prevail. The Judgment relations to the prevention of child labour, bounded labour and on prevention of atrocities by the Supreme court are remarkable with regard to Environmental Jurisprudence the Supreme Court has delivered wonderful Judgments wherein it has stated that the right to like guaranteed under Article 21 includes the right to a whole some environment and further observed that Article 21 include the right of enjoyment of pollution free water, air for full enjoyment of life. Despite of several legislations and Judgments, the human rights of the Children are not impounded. This may be the lack of commitment and political will on the part of the Government and policy makers. It is right time to protect the human rights and constitutional rights of the children by all sections of population.

Supreme Court has issued directions to check the evil of child prostitution, in the cases Visahal Jeet V. Union of India (AIR, 1990 SC 1412) and Gaurav Jain V. Union of India (AIR 1997, Sc 3021).

Conclusion

Children, the future assets of a nation, have to be protected and must be given every opportunity to receive education, gain knowledge of men and materials and blossom in such an atmosphere that on reaching adulthood must become a person with a mission and one who matters positively for the society. Although infancy and childhood occupy only a fraction of the life span, they are the most crucial formative years in determining and influencing the personality of the adulthood. Hence law and legal Systems are expected to protect them from exploitation by authorities either at home or at schools or at systems of administration of justice duly considering their tender age, incapacity to understand things in the perspective of worldly knowledge.

The employment of children in any gainful activity has the potential for exploitation is quite evident from the various case studies, which reveal shocking facts about child labour exploitation. In manufacturing units producing brassware, match sticks, diamond and precious stone jewelleries, carpets, locks and other such products, children are exposed to adverse working conditions such as exposure to harmful chemicals, handling machines and other similarly hazardous conditions. This leads to certain occupational defects, physical deformities and diseases, in the later part of their lives or even pre-mature death.

On the whole, the workplace environment exerts a direct negative effect not only on physical but also on mental development of children. The lack of leisure facilities, schooling, games, opportunities for pursuing intellectually stimulating hobbies along with lack of adequate sleep, nourishment and hygiene permanently damages the future prospects of children. This further perpetuates the poverty in the society. Some studies have also pointed out that working children are converted into 'pseudo' adults, which has a permanent limiting and disturbing effect on their later life. Deeply entrenched patriarchal biases, illiteracy, unemployment and low-wages of adults, low enrollment rates, caste system, fertility behaviour, migration as well as other developmental factors are also the culprits as suggested in various studies.

True, poverty is an important cause but child exploitation cannot be allowed to persist till we completely eliminate poverty. The government will have to take other concrete actions like achieving
the objective of universalizing elementary education, meeting family planning targets, sensitization of public and by giving more teeth to the existing laws concerning child exploitation. These actions must be adjusted to the socio-economic setup of the affected area in order to make them effective.

No doubt children's rights, like human rights more generally, are sometimes perceived as a 'western" imposition on other cultures and value systems and the question that is often posed is the extent to which 'Human Rights' of children can be truly 'Universal, given the wide range of socioeconomic, religious and cultural realities throughout the world. Many cultures have varying ideas of the way in which children should be brought up and treated. So, is it, then, possible and useful to set out standards that are applicable and applied worldwide? The problem apparently becomes complex when it comes to human rights of children. First of all there are significantly divergent perceptions, depending on the socio-economic milieu of the country regarding the age at which 'childhood' ends. The fact that methods of upbringing and socialization vary greatly is also seen as a major obstacle to drawing up 'global rules' governing the treatment of the children. Therefore, the formalization of standards of children's rights may become much more difficult.

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