
Research Papers



HUMAN RIGHTS APPROACH TO CHILD LABOUR

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ABSTRACT :

The concept of Human Rights embraces the society of all human kind since time immemorial. Human Rights, irrespective of race, religion, gender and other differences belong to human beings everywhere. Human Rights are essential to develop and to make use of the human qualities like intelligence, tolerance, contentment and to satisfy the spiritual and other needs. Human Rights are fundamental, indivisible, inalienable and universal. Child Labour must be viewed as a human rights problem and is increasingly recognized as such by the international community. Human Rights of children are violated by the existence of Child Labour in various forms. All liberal democratic governments guarantee a number of rights to their citizens through their constitutions. However existence of poverty, lack of educational opportunities, gender and social discrimination, corruption and misuse of the state machinery are coming in the way of enjoyment of rights by the disadvantaged sections of the civil society.

KEYWORDS : Immemorial, Fundamental, Guarantee, Discrimination.

INTRODUCTION:

“We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things that we need can wait. The child cannot wait. Right now is the time his bones are being formed, his blood is being made, and his senses are being developed. To him we cannot answer ‘Tomorrow’; his name is ‘Today’”.

-- **Gabriela Mistal**

Noble Peace Winning Poet from Chile

Human Rights are those rights to which people are entitled by virtue of being human; they are immortal and secular version of ‘natural rights’. Human Rights are universal, in the sense that they belong to human beings everywhere, regardless of race, religion, gender and other differences, fundamental, in that a human being’s entitlement to them cannot be removed, indivisible (in that civic and political rights, and economic, social and cultural rights are interrelated and co-equal in importance) and absolute (in that, as a basic grounds for living a genuinely human life, they cannot be qualified). Human Rights are as old as the human civilization itself. Ever since human being came on this earth there has been an inborn and intrinsic tendency to save his person and the property. If we put it straight the protection of one’s person and property is inherent in the nature of man. Simply speaking Human Rights are the rights which any human being on this earth must enjoy because he is a human being. The starting point of the problems of the Human Rights order is with the human being himself, be it slavery, bonded labour, women subordination, child abuse, custodial death and all other social evils, the list is almost endless. The problem of Human Rights violations surfaces because we

live in an exploitative society where a person because of his position, power, rank or any other like factor, has a tendency to exploit the other human being.

WHAT ARE RIGHTS?

Rights are central opportunities essential for development of human dignity, faculties and personality. In the negative aspect, rights protect one against arbitrary behaviour of another person, and of the State machinery. In positive aspect, they promote humanitarian aspirations. Rights are categorised as political, civil, economic and cultural. There are rights to life, liberty, equality, employment, education, practice any faith, etc. some rights, particularly political and economic are allowed to citizens only, the rest are for all to enjoy in a democracy. Rights enlarge the area of freedom, offer security from violence and discriminatory treatment and are expected to ensure general protection against all kinds of oppression.

'Rights' as a paradigm is a social concept. Without a society conscious of common moral and social interests and obligations there may not be any rights. There is likely to be display of power and might becomes right, but rights do not become might. Many thinkers, like Jeremy Bentham for instance, have criticised the doctrine of natural rights. The term natural rights implies that in the dim and distant past when there was no organised society people used to enjoy certain natural rights and natural liberty. John Locke, J.J. Rousseau and J.S. Mill are upholders of natural liberty and rights. Thomas Hobbes did not subscribe to the idea of definitive natural rights. He thought that rights were a gift of the sovereign authority which itself was instituted by the expressed consent of all the people. If there is no undisputed law, authenticated and enforced by the sovereign authority there is no right. This is illustrated in a country ravaged by civil war viz., England during the 16th and 17th centuries, France between 1789 and 1795, the former Soviet Union from 1917 to 1921 and countries like Somalia, Bosnia, Afghanistan etc. during the recent past in India, the turmoil in Kashmir, Punjab and the north-east has severely curtailed the rights of citizens of these states guaranteed to them by the Indian democratic Constitution.

All liberal democratic socialist states formally guarantee a number of rights to their citizens through their Constitutions. Nevertheless, all members of the citizen body can ill afford to enjoy them on account of poverty, lack of educational opportunities, gender and social discrimination, corruption and a highhandedness of the State agents and socially dominant forces. The inadequate capacity of the weak, children, women, unorganised workers, agricultural labourers, the Dalits and so forth, to fend for themselves and put pressure on the system to give them their due under the Constitution, causes deprivation of the so-called guaranteed rights. The highly organised vociferous minority groups and elites try to corner most of the benefits in every sphere in a free society.

Prior to emergence of the global human rights discourse, "rights" assured to citizens by different states were diverse. The concerned State was itself the reference point, the ultimate authority and arbiter of such rights. There were no uniform standards globally acknowledged with regard to the rights. Positive Law along with the idea of Positive Rights dominated the scene, with the notion of natural law and natural rights being more relevant in the domain of protest.

The Universal Declaration of Human Rights (UDHR) adopted by the United Nations Organization on December 10, 1948 is the Magna Carta of universal human rights. It recognizes the inherent right of dignity, liberty and equality of every individual. Human Rights promote peace, social progress and better standards of life and greater freedom to all people. Article 1 of UDHR recognizes that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, should act, therefore, towards one another in a spirit of brotherhood. It further declares that everyone is entitled to all the rights and freedom set forth in the declaration without any distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The declaration consists of political and civil rights, cultural, economic and social rights.

CHILD LABOUR AND HUMAN RIGHTS

Child Labour means that children are forced to work like adults and take part in an economic activity. Child Labour refers to the employment of children in any work that deprives children of their

childhood, interferes with their ability to attend regular school, and that is mentally, physically, socially or morally dangerous and harmful.

Child Labour is a Human Rights problem and is increasingly being recognized as such the world over. Article 10(3) of the 1966 International Covenant on Economic Social and Cultural Rights makes a clear statement. Children and young people should be protected from economic and social exploitation. Their employment in work is dangerous to their life or likely to hamper their normal development and should be punishable by law. States should also set age limit below which the paid employment of child labor should be prohibited and punishable by law.

In 1989 the United Nations convention on the Rights of the Child was held to discuss issues pertaining to child rights. Article 3 of the Convention exhorts the state parties “in all actions concerning children” to ensure the best interests of the child including such protection and care as is necessary for his or her well being. In the same breath the convention spoke about the right of children to freedom of expression including freedom to seek, receive and impart information and ideas of all kinds. The Convention desires parents to assume common and primary responsibility for “the upbringing and development of the child” guided by the best interests of the child. The right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development is incorporated in it. It further recognized the right of the child to education and to protect children against cruel, inhuman or degrading treatment. The provisions of 1989 Convention of the Rights of the Child (CRC) substantiate the fact that the problem of child labor is a human rights problem and with a multidimensional facts.

Child Labor involves practices that violate children’s human rights both directly (eg. Slavery) and more commonly indirectly (eg. Compulsory labour that results in denial of the right of education). The problem of child labor embraces not only the rights of the child but the whole gambit of three generations of rights that have evolved since the English Bill of rights of 1689 to the present day, (1) Civil and Political rights, Economic Social and Cultural rights, and most recently Community (or) Solidarity group rights. Each has its own historical roots and is linked to the problem of child labour in one or more of its manifestation, including such third generation of rights as the right to peace, right to development and the right to a clean and healthy environment. The exploitative employment of trafficked children for commercial sexual acts, for example, flouts the right to the security of one’s persons and the exposure of working children to toxic and other hazardous substances threatens the human right to health. Likewise the issue of child soldiering violates the group right to peace.

All the three historic instruments that constitute the “International Bill of Human Rights”, namely the 1948 Universal Declaration of Human Rights (UDHR), the 1966 ICESCR and the 1966 International Covenant on Civil and Political Rights (ICCPR) have many provisions that speak about the rights of children. Hence it is impossible to disassociate the problem of child labour from the ambit of human rights.

For human development neglecting children means loss to the society as a whole. If children are deprived of their childhood - socially, economically, physically and mentally – the nation gets deprived of the potential human resources for social progress, economic empowerment, peace and order, social stability and good citizenry.

Child Labour as understood by international conventions and national legislation is a violation of human rights so fundamental that it must be outlawed without compromise. Deploring this phenomenon, the Supreme Court of India, in *Bandhu Mukti Morcha Vs Union of India* and others 1997 observed: “A child of today cannot develop to be a responsible and productive member of tomorrow’s society unless an environment which is conducive to his social and physical health is assured to him. Every nation, developed or developing, links the potential and also sets the limit to the future development of the society. Children are the greatest gifts of humanity. The parents themselves live for them. They embody the joy of life and in their innocence relieve the fatigue and drudgery in their struggle of daily life. Parents regain peace and happiness in the company of children. Children signify eternal optimism in the human being and always provide the potential”.

HUMAN RIGHTS APPROACH TO CHILD LABOUR

Human Rights based approach to child labour, especially when conceived and executed from a multidimensional, holistic perspective, has strong pragmatic underpinnings and thus can have

substantial beneficial results. One can point to numerous instances in which human rights discourse and strategy have had real impact, including in the area of child labour.

A rights based approach to child labor elevates the needs and interests of children in this context to societal needs and interests – societal good- with associated claims of legal and political legitimacy. As UNICEF’s 1997 State of the World’s Children Report characterized the organization’s strategic decision to use rights to reduce child labour. “The idea that children have special needs has given way to the conviction that children have rights, the same full spectrum of rights as adults, civil and political, social, cultural and economic. Similarly the 1999 State of the World’s Children report says that “What were once seen as the needs of children have been elevated to something far harder to ignore their rights. To assert a right of a child to be free from abusive, exploitive, and hazardous work is thus to strengthen a child’s possibility for a life of dignity and well being”.

Thus, in the struggle against child labour, rights based approach signals, more than the alleviation of child abuse and exploitation per se. It also signals that notions of non-discrimination and justice and dignity must be central in all aspects of a working child’s life including provision for her or his education, health, and spiritual, moral or social development – precisely as the 1989 CRC envisions. A rights based approach to the child labour problems is part of a complex web of interdependent rights that extends protection beyond one domain to many others in a child’s life. It transforms the struggle against child labour into a struggle for human dignity.

REFERENCES

1. R.C. Paul, “Protection of Human Rights”, Common Wealth Publishers, New Delhi (2000).
2. Eleanor Roosevelt, Universal Declaration of Human Rights, Applewood, New York, 2001,p.84.
3. Burns H. Weston, “Child Labour and Human Rights”, Viva Books Private Limited, New Delhi (2007).
4. Subrata Sankar Bagchi “Child labour in a Third World Urban situation”, Atlantic Publishers,London (2010).
5. Diganta Mukherjee “Child labour and Child Work”, Lambert Academic Publishers, New Delhi (2010).