
Protection Of Child Labour Under The Auspices Of Human Rights Regime

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“The principle of ‘all children, all rights’ is still much too far from being reality”.

....Secretary – General, Kofi Annan.

Today, the world live in an atmosphere where there is an unprecedented increase of human rights enunciations and a growing disregard for these very rights. The children’s group is one of those vulnerable groups whose rights have been disregarded due to many reasons. The violation of human rights of children has always been an area of concern. It is at the most destructive end, where children are used as labour or worker or slave in particularly hazardous conditions to repay debts incurred by their parents or grand parents. Many times the industrialists engage child labours without giving them adequate remuneration to gain more profit. As per the statistics given by United Nations some 250 million children between the ages of 5 and 14 work full time or part-time. Of these some 50 million to 60 million are between 5 and 11 years and work full time. By definition, in hazardous circumstances, considering their age and vulnerability, child labour practice is not limited only up to undeveloped countries but it is common in developed countries also. For example, in the United States, more than 230, 000 children work in agriculture and many in sweet shops.

Children around the world suffer appalling abuses. Too often, street children are killed or tortured by police. Children as young as seven or eight are recruited or kidnapped to serve as soldiers in military forces. Sometimes as young as six years old, children are forced to work under extremely difficult conditions, often as bonded laborers or in forced prostitution. They are imprisoned in inhumane conditions, sometimes in cells with adults. They are often brutalized by guards or not protected from assaults by other inmates. Refugee children, often separated from their families, are vulnerable to exploitation, sexual abuse, or domestic violence. Ironically, within the care of the state, children are often subject to abuse and mistreatment – orphaned and abandoned children are housed in appalling institutions where they suffer from cruelty and neglect; many die. For many students, life in and outside of the classroom is intolerable – at the hands of peers and teachers, many children suffer under acts of

discrimination, abuse, sexual violence, and harassment. In many countries, teachers are allowed to use corporal punishment on children. Children are discriminated against in education because of their race or ethnicity. Children orphaned or otherwise affected by HIV / AIDS are discriminated against and often are left to fend for themselves.

In the past, this huge and largely voiceless population has fallen through the cracks in the international human rights arena. Traditional children's humanitarian groups have focused mainly on vital survival and development projects, and have rarely addressed other human rights concerns because they could not afford to antagonize host governments. Human Rights groups have focused chiefly on the rights of adults. As the human rights movement was founded out of concern for political dissidents, it has sometimes overlooked those—like children—whose persecution is unrelated to their political views.

The *Convention on the Rights of the child* put children's rights on the world's agenda; it is the most widely ratified treaty in the world. Adopted by the United Nations General Assembly on November 20, 1989, the Convention promises children around the world the rights to life, liberty, education, and health care. It provides protection to children in armed conflict, protection from discrimination, protection from torture or cruel, inhuman or degrading treatment or punishment, protection within the justice system, and protection from economic exploitation, in addition to many other fundamental protections. Despite the convention's near-universal ratification (only the U.S. and Somalia have not ratified it), children are still denied their basic rights.

The present article focuses on the reasons of child labour, available legal framework on international and national level and recommendations to prevent child labour.

Child Labourer :

Definition of a child: Using the United Nations Convention on the Rights of the Child, a child is considered to be any human being below the age of 18 (CRC Article 1). The term "Child Labour" as defined by International Labour Organization (ILO) generally refers to any economic activity performed by a person under the age of 15. ILO establishes as general minimum age of 15, provided 15 is not less than the age of completion of compulsory schooling. Many countries make a distinction between light and hazardous work, with the minimum age for the former generally being 12, for the latter usually varying between 16 and 18. ILO conventions adopt this approach, allowing light work at age 12 or 13, but hazardous work not before 18. The age of 15 years is the most widely used yardstick when identifying how many children are currently working around the world.

In India, as per the provision contained in the Child Labour (Prohibition and Regulation) Act, 1986, Child below the age of fourteen years should not be employed to work in any factory or mine or engaged in any other hazardous employment.

In simple words, the child labour refers to those employments which prevents child from attending school regularly and which is hazardous to the physical and mental health of the child.

In reality, children do a variety of work in widely divergent conditions. This work takes place along a continuum, from work that is beneficial, promoting or enhancing a child's development without interfering with schooling, recreation and rest to work that is simply destructive or exploitative.

Hazardous Work :

Most child labour is found in agriculture and fishing. The main tasks in agriculture include working with machinery and agrochemicals, and picking and loading crops. Hazards may include unsafe machinery, hazardous substances (insecticides, herbicides), heavy lifting and extreme temperatures. In deep-sea fishing, children might be diving to depths of up to 60 meters to attaché nets to coral reefs, risking exposure to high atmospheric pressure and attacks by carnivorous and poisonous fish. Many child labours is found in manufacturing also, where items such as glass bangles, matches, fire works or bricks might be made. Hazards occur in the form of noxious fumes and radiant hear from the molten glass; stepping on or handling hot broken glass; exposure to hazardous chemical mixtures; stuffing cracker powder into fire works, risking fire and explosion, exposure to silicate, lead and carbon monoxide, carrying excessive weights; and burns from ovens through the processing of clay in the making bricks.

Reasons of Child Labour system :

While discussing the reasons of child labour system, the two questions are to be addressed. First is, why people engage their children as labour, worker or slave? And why employer employs children?

People engage their children as labour mainly due to large population, poverty, illiteracy, unemployment and unawareness about their human rights. All these reasons are interdependent in nature. Large population produce poverty. Due to poverty, people treat education as unnecessary and remain illiterate. Due to illiteracy, they remain unaware about their human rights including the schemes, policies, which have been sponsored for them by Government or by some organization, due to illiteracy, they do not get adequate employment or work for livelihood and many times they remain unemployed. Due to unemployment, people face poverty. Hence, people have to engage their children in any type of work. According to them, more children means more income. Such equations of people results into large population of nation.

On the other hand, the employers want to employ children on work, mainly due to children represent the cheapest source of human labour. Children have good concentration and dedication towards work in comparison to adults. In addition to this, due to physical and mental vulnerability, children can be exploited easily. It appears that, in many parts of the world, children are sold into several types of employment either by their parents, guardians or other intermediaries. The type of employment refers to the work in hazardous industries, begging, stealing and other criminal actions, pornography, active participation in armed conflicts, organ transplants, child sex tourism, prostitutes and so on.

It has been observed that children used labour exploitation are usually lured from particular racial or social groups rather than from the well-endorsed groups in power.

International Scenario to prevent Child Labour :

At the international level, various instruments provide an umbrella of protection for child labourers. In fact, the right of child has a rich history, which begins in 19th Century. This can be seen from following statements.

- 1924 - League of Nations endorsed the first Declaration of the Rights of Child by saying “ Mankind owes to the child the best that it has to give.....”
 - 1945 - The United Nations Charter laid much of the ground work for the Convention by urging Nations to promote and encourage respect for human rights and fundamental freedoms, “For All” by saying “ Childhood is entitled to special care and assistance”
 - 1948 - Universal Declaration of Human Rights was adopted proclaiming that “all human beings are born free and equal in dignity and rights. And;
 - It also stressed “motherhood and childhood are entitled to special care and protection”- reference to the family as “the natural and fundamental group, unit of society”.
 - Then again in 1948 the United Nations General Assembly, adopted, Second Declaration on Rights of Child, but it was a brief statement and therefore, a decision to draft a still more detailed Declaration, was made;
 - 1959 - Just over a decade later, the third Declaration on the Rights of the child, adopted by General Assembly;
 - 1966 - The International legal frame work was to buttren further by adopting two International Covenants on Civil and Political rights and Economic, Social and Cultural Rights. These two Covenants became legally binding force on State parties as on in 1976.
 - The Declaration on the Rights of the Child adopted in 1959, has had no binding effect on states such as the two International Covenants;
 - Therefore, it was felt necessary to adopt similar Convention or Covenant for the rights of the child to carry the weight of International Law;
 - Accordingly, on the eve of the International Year of Child sponsored by the United Nations, in 1978, Poland formally proposed a draft text for the Convention on the Rights of the Child;
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- Following year, the United Nations as Human Rights formed a working group to review and expand on the original text.
- The working group drew heavily from United Nation's on Human Rights International Covenants and formulated Convention on the Rights of Child; containing 41 Articles;
- 1990 - The United Nations General Assembly adopted the Convention on Rights of Child in November 1989. That came into force in September 1990. Thus, the Convention on Rights of Child has become legally binding on state parties;

As per the Article 8 of International Covenant on Civil and Political Rights (ICCPR), 1966

1. *“ No one shall be held in slavery; and the slave trade in all their forms shall be prohibited.....”*
- 3(a) *“No one shall be required to perform forced or compulsory labour”.*

Further Article 24(1) of ICCPR provides that, “every child shall have without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as minor, on the part of his family, society and the State”.

Article 10 (3) of International Covenant on Economic, Social and Cultural Rights (ICESCR) gives specific provision to prohibit child labour.

It says that,

“.....Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law”.

1995 - The World Conference on Human Rights, held in Vienna in 1993, set a target for the Universal ratification of the Convention on Rights of Child by end of 1995, and virtually entire states in world ratified the Convention, which has now become human rights treaty in the history of the rights of child.

“A Century that began with Children having virtually no right is ending with children having the most powerful legal instrument that not only recognizes but protects their human rights” said Carel Bellamy, Executive Director, UNICEF.

The New Vision of the Convention on Rights of Child :

Convention on Rights of Child aims to address the problems arising out of

abuses of the child rights and protection to their civil, political, economical, social and cultural rights. It intends to ensure that every child grows up “in the spirit of peace, dignity, tolerance, freedom, equity and solidarity”. The rights of child are integral part of the human rights. These rights of the children and the standard to which all Governments must aspire in realizing their rights are most concisely and fully articulated in the International Human Rights treaty.

This convention, uniquely places children center – stage in quest for the universal application of human rights. The National Governments have committed themselves to protecting and ensuring children’s rights and they have agreed to hold themselves accountable for their commitment before the international community. Thus, built on varied legal system and cultural traditions, the Convention on rights of child is a universally agreed set of non-negotiable standards and obligations. It spells out in Articles that the rights of child is inherent to the human dignity in harmonious development of every child.

The convention draws attention to four sets of civil, political, social, economic and cultural rights of every child. These are :

The right to survival:

Which includes the rights to life, the highest attainable standard of health, nutrition, and adequate standards of living. It also includes the right to a name and a nationality.

The right to protection:

Which includes freedom from all forms of exploitation, abuse, inhuman or degrading right to special protection in situations of emergency and armed conflicts.

The right to development:

Which includes the right to education, support for early childhood development and care, social security, and the right to leisure, recreation and cultural activities.

The right to participation:

Which includes respect for the views of the child, freedom of expression, access to appropriate information, and freedom of thought, conscience and religion.

The Convention provides the legal basis for initiating action to ensure the rights of children in society. In the context of prohibition of child labour, under Article 32 the Convention states :

“State parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social

development.”

Further the Convention states that the state shall set minimum ages for employment and regulate working conditions.

It is thus seen that more progress is made in realizing and protecting children's rights in the decade following adoption of the Convention on the Rights of the Child than in any other favorable period in human history and children's rights are now higher on public and political agenda than ever before.

“All of us are born with human rights”, - a principle of the Convention on the Rights of the Child makes very clear.

Contribution United Nations (U.N.).

Reference : UN Organization

The United Nations was created after the Second World War. It provides a place for all the countries of the world to discuss problems and deal with issues that affect them all. It has key role in trying to maintain international peace and security. The United Nations is based in New York and Geneva, but also has offices in other countries.

The United Nations is made of 189 countries that are all represented in the United Nations General Assembly. The General Assembly is like a parliament of the nations, which meets in New York to discuss the world's most important problems. Although the U.N. is not a world government, it is a place where countries can agree how they want to work together to tackle issues.

On November 20th, 1989 the United Nations General Assembly promised certain things to children when it formally adopted the United Nations Convention on the Rights of the Child (also known as the CRC). The CRC provides the framework for the promotion and protection of the basic human rights for all children, everywhere, all the time.

The CRC explains that Children's rights include the rights to:

- Be protected from all types of harm;
- Be provided with things they need to survive and grow;
- Take part in community and political life;
- Grow up in their own family, culture, language and religion whenever possible.

In 1990 governments held a big meeting called “ The World Summit for Children” in New York. The main goal of the meeting was to develop promises and commitments to improve and invest in the lives of children. At this meeting they promised to always put the best interest of children first, in good times and in bad times. They made 27 promises for children, which they said they would achieve by the year 2000 and which

they put in a document called the “World Declaration on the Survival, Protection and Development of Children and Plan of Action”.

Many countries developed what is called, “A National Programmes of Action” explained how governments would achieve the goals and promises they had made. They also included ways of working in partnership with non-governmental organizations, other levels of government, the private sector and civic groups. These Programmes also explained how governments would collect information and monitor different things that affect the well being of children. This Collection and monitoring would help them to build on and develop programmes to deal with any problems that come up.

In February 1996 countries were asked to submit a report detailing the progress they had made so far in achieving the goals and promises they had made at the World Summit for Children. Part of the reason for this was that many of the promises made at the 1990 World Summit for Children were already meant to have been fulfilled by 1995. These short 5 year promises were suppose to make it easier to fulfill the promises for the easier to fulfill the promises for the year 2000. By 1996 a few things had improved BUT, a lot of work still needed to be done. All the people and governments involved were asked to increase their efforts and remember their promises.

Every year the UN General Assembly meets on a regular basis to discuss various questions. Sometimes the General Assembly decides to have a “Special Session” to discuss a particular problem or issue for a few days. Since the United Nations was founded the General Assembly has held over 20 ”Special Sessions”. They have looked at issues such as social development, women and disarmament. In June last year the General Assembly held a Special Session to look at how the world should deal with HIV / AIDS. This is the first time in the history of the United Nations that a Special Session on children was held.

Eleven years ago there was a major international meeting on children called the World Summit on Children. It agreed 27 goals that the governments of the world would try and achieve for children. The Special Session on Children was held on 10th October 2003 to look at what has happened to children since 1990 and to agree what the world wants to do for children over the next 10 years.

Main Documents were Discussed

There were two main documents, which were discussed at the Special Session.

1. The first is the report called ‘We the Children’ which has been written by the head of U.N., Secretary General Kofi Annan. Its main conclusion is that the governments did not keep most of the promises they made to children in 1990 because they did not invest enough money in children (e.g. in schools or clean
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water supplies). In addition, the rich countries did not give enough help to poorer countries to help them achieve the goals. However, lots of good things did happen and many more children are alive today because of the efforts that governments made.

2. the other main document is called ‘A World Fit for Children’. This document is also known as the Outcome Document, this document has been discussed by governments at the U.N. and contains the promises that governments will make to children for the next 10 years. The document says that there are four key issues facing children that need to be looked at – health, education, HIV / AIDS and the protection of children from violence, abuse and exploitation.

In his Closing Statement by H. E. Dr. Han Seung – Soo,
President of the General Assembly of the United Nations at the closing of the Special Session of the General Assembly on Children he said :

“The Plan of Action sets out specific targets to achieve in the fields of health, education, protection against abuse, exploitation and violence, as well as combating HIV / AIDS among children. It is a milestone in a long journey that began in 1990 with the World Summit for Children that gathered momentum during the 1990s and that has brought us all here to plan our course for the future. To build a world fit for children. To make it a better place for them to grow up in, a place where their basic needs will be met, where their rights will be respected and promoted.”

“It is crucially important to recognize that chronic poverty remains the biggest obstacle to promoting the welfare of children in many developing countries. The international development goals and strategies agreed upon at major United Nations conferences, in particular the Millennium Summit, should be continuously pursued by the international community in order to assist developing countries in eradicating poverty and promoting the well-being of children.....”

The real work of creating a world fit for children has only just begun. But our achievements thus far should give us confidence to face the arduous challenges ahead.

Many United Nations agencies are doing work for children, directly or indirectly. Particularly, the two United Nations agencies have directed their attention to the prevention of child labour worldwide : the International Labour Organization (ILO) and the United Nations Children’s Fund (UNICEF). They have helped to define the problems and develop international legal frameworks to correct them. As a result of their works, we now have several international treaties, banning child labour and identifying concrete measures for Governments to take. Once a country ratifies a convention, United Nations bodies monitor compliance and hold countries accountable for violations.

International Labour Organization (ILO) since its inception has been committed to the protection of the rights of children and young, persons as an essential prerequisite for social justice. In 1999, ILO Unanimously adopted the Convention concerning the

Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Convention (No.182). This convention is considered by many as perhaps the most significant legal instrument to tackle child labour. It defines the worst forms of child labour, viz. child slavery, child prostitution, use of children in illicit activities and work exposing children to grave health and safety hazards. It could for states to prevent and ban such practices as a matter of urgency.

Besides this, in 1990, ILO launched a major global offensive by establishing the International Programme on the elimination of Child Labour (IPEC). The programme provided, upon the request of individuals, technical advisory services focusing on the worst abuses; hazardous work, forced labour, street children, girls and the employment of children who are less than 13 years old.

UNICEF, a partner in the Global Movement since the beginning, works with governments, non-governmental organizations, the private sector, communities families and children to ensure that the ideals and principles of the Convention on the Rights of the child become everyday reality for all. This goal received invaluable support during, the year 2000 when Nelson Mandela, former President of South Africa, and Grasa Machel, a United Nations special expert on children in armed conflict, joined UNICEF and others in launching a global leadership initiative for children UNICEF calls all people with influence to place children's rights and well being at the top of policy agendas and to "invest in children now".

Legal Position in India :

Indian Constitution is the fountainhead for has granted justice, equality and liberty. Article 21 of the Constitutidon is the Cambodian of the human rights. It is about the protection of life and personal liberty of every individual. The important feature of Article 21 is, it gives right to life to all persons and not only citizens of India.

Further in regard to specific provision for children and more particularly for child labour Article 24, Article 39 (e) and (f) are available.

The Articles deal specifically with the problem of child labour. Article 24 says :
"No Child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment".

Article 24 is a fundamental right. Further directive principles of State Policy provides :

"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 avocations unsuited to their age or strength;

that children are given opportunities and facilities to develop in 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 15(3) provides :

“ Nothing in this Article shall prevent the state from making any special provision for women and children”.

Besides these provisions, Article 51 States in regard to promotion of international peace and security. It says :

“The State shall endeavor to – (c) foster, respect for international law and treaty obligations in the dealings of organized people with one another...”

Article 253 gives power to Parliament to make any law for the whole or any part of the territories of India for implementing any treaty, agreement or convention.

Besides Constitutional provisions, the Parliament has enacted several Acts, such as, Children Act, 1960, The Bonded Labour System (Abolition) Act, 1976, The Protection of Human Rights Act, 1993 etc. The most important Act to prevent child labour system is “The child labour (Prohibition and Regulation) Act, 1986”. Main features of this Act are as follows :

The Child labour (Prohibition and Regulation) Act, 1986 came into force from 23rd December 1986. Its main objectives are to prohibit the employment of children in certain categories of industries and to regulate the conditions of work of children in certain industries. It was amended in 1988. The Act is applicable to all establishments such as workshop, farm residential hotels, restaurants, eating house, theater or other places of public amusements where child labour is largely employed. The Act extends to the whole of India. Under this Act, a child means a person who has not completed 14 years of age. The main provisions of Act are as follows:

- (1) **Prohibition of employment of children in certain occupations and processes :** No child can be employed, or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop where in any of the processes set forth in part B of the Schedule is carried on.
 - (2) **Hours and period of work :** No child shall be allowed to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments. The daily hours of work shall be so fixed that no child shall be allowed to work for more than three hours without prior interval of half an hour.
 - (3) **Weekly Holiday :** Every child employed in any establishment shall be given one weekly holiday of 24 hours.
 - (4) **Health and safety :** The appropriate government by notification in the official Gazette, can make rules for health and safety of children employed or permitted to work in any establishment or class of establishment.
 - (5) **Child Labour Technical Advisory Committee :** The Central Government
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by notification in the official Gazette may constitute a Child Labour Technical Advisory Committee to advise government for the purpose of occupation and processes to be included in the schedule.

- (6) **Power to Make Rules :** The appropriate government by notification in the official Gazette can make rules for the proper enforcement of the Act.
- (7) **Appointment of Inspectors :** The appropriate government may appoint inspectors for the purpose of securing compliance of this Act.
- (8) **Penalties :** Whosoever employs any child or permits any child to work in contravention of the provision of Act shall be punishable with imprisonment for a term of not less than three months but can be extended to one year or with a fine which shall not be less than ten thousand rupees, however, it can extend to twenty thousand rupees or with both.

Role of Indian Judiciary :

The Supreme Court has played a prominent role in the abolishment of child labour.

In people's Union for Democratic Rights vs. UOI, the Supreme Court has emphasized that Article 24 embodies a fundamental right which is plainly and indubitably enforceable against everyone. By reason of its compulsive mandate, no one can employ a child below the age of 14 years in hazardous employment like construction work. In Labourers Working on Sala Hydroproject vs. Jammu and Kashmir case, the Supreme Court has reiterated that construction work being hazardous employment, children below 14 cannot be employed in this work because of constitutional prohibition contained in Article 24 considering the social – economic environment, total prohibition on child labour may not be socially feasible. Article 24, therefore, puts only a partial restriction on child labour. Reading Article 15 (3), 24 and its (e) and (f) of Article 39, the Supreme Court has emphasized in Laxmi Kant vs UOI, AIR 1984 SC upon the great importance of child welfare in the country.

Role of Human Rights Commission :

Nowadays the importance of Human Rights Commission is growing in all over the world. India is also not exception to this growth. The Human Rights Commissions support the basic institutions of democracy – such as pluralist and accountable Parliament, an Executive who is ultimately subject to the authority of elected representatives and independent judiciary. Yet these Commissions stand apart from those three branches of Government and, ideally, provide a bridge between them and civil society. They have roles in advising relevant authorities, in addressing and remedying human rights violation in strengthening a human rights culture in society generally. Mary Robinson, United Nations High Commissioner for Human Rights has stated “National Human Rights Institutions are by their very nature well placed to transform the rhetoric of international instruments into practical reality at the local level. Because they are national they can accommodate the challenges posed by local conditions and cultures, respecting ethnic, cultural, religious and linguistic diversity in

implementing internationally agreed human rights principles. And National Institution can provide constructive, well informed criticism from within a course of advice and warning which is often more easily accepted than criticism from outside sources.”

In the speech delivered by H. E. President of India, Dr. A. P. J. Abdul Kalam at the Human Rights Day function held at Vigyan Bhavan, New Delhi on 10th December, 2002, he said :

“ National Human Rights Commission becomes the eyes and ears and an impartial authority and work hand in hand with judiciary.”

“Removal of Poverty through vision for the nation”

“People, who are economically or socially in the lower strata, are vulnerable to human rights exploitation by those who are in the higher strata. One way to reduce this exploitation is to narrow this divide. In our country, about 300 million people are below the poverty line. After five decades of progress, the aspirations of people are rightly mounting that India should become a developed country. This is the second vision for the nation. How can we prepare ourselves to this challenge? India has to be economically and commercially powerful with near self-reliance in defense. Our target should be a GDP growth of 9-11% annually and that the people below poverty line to be reduced to nearly zero. This would also include providing of sufficient employment opportunities to the physically and mentally challenged. How are we going to achieve this? Technology Vision 2020 is a pathway to realize this cherished mission.”

Recognizing the importance of human rights institution, the Indian Parliament has enacted the Protection of Human Rights Act, 1993 and constituted National Human Rights Commission, State Human Rights Commissions and Human Rights Courts.

Today the National Human Rights Commission and State Human Rights Commission carry a torch of human rights from the concept to realization in India. The vision of the Commission is to have a smile in every heart. Maharashtra State Human Rights Commission was established on 6th March, 2001 with the same vision to protect life, liberty, equality and dignity of individuals guaranteed by the Constitution and embodied in the International Covenants.

Recently, Maharashtra State Human Rights Commission decided a case related to child labour issue. In the complaint made to the Commission it has been alleged that Kumar Naresh was studying in Std. VIII. He was, however, forced to work in garage of Shri Shrikrishna Kukarni on the preface as a trainee, but as a matter of fact as a Bonded Labour by reason of the hand loan obtained by his father. Further, it appears that there was a theft in the garage and he was removed from the employment without payment of any salary. It is stated that Kumar Naresh was required to work in a garage between 10.00 a.m. to 8.00 p.m. Besides, the garage he was also required to work on Xerox machine as carrier for stationery and for other office work. On account of this Kumar Naresh could not attend his school. Moreover, it has also been alleged that Kumar

Naresh's father Shri. Dattaram has also worked as a plumber at the place of Shri Shrikrishna Kulkarni. He was also not paid his labour charges.

On preliminary examination of the allegations in the complaint, the Commission observed that Prima-facie case is made out and therefore, the notice was issued to the concerned authorities.

Kumar Naresh was held to be Bonded Labourer. An appropriate action has been also taken as required under the Act. It has been reported that the Tahasildar, Andheri has filed his FIR in the Cognizable offence under the Act against Shri. Shrikrishna Kulkarni. The copy of report was supplied to Shri Pandit, Director, 'Samarthan'. It will be seen that by reason of intervention of the Commission, the matter was set at right and the District Magistrate has taken appropriate action under Sec. 10 of the Bonded Labour System (Abolition) Act, 1976 in the matter alleged:

The Commission, therefore, suggests some of the measures to be adopted by the state Government, namely:

- 1) *The bonded labour system is a dynamic problem, it can occur and re-occur at any point of time in an industry/occupation, be it agriculture or its allied activities or its allied activities or non-agricultural activities. Therefore, identification of bonded labour system should be continuous process. This requires continuous vigilance and surveillance at District and Taluka levels.*
 - 2) *Functionaries of the Revenue Department working at village, block/taluka and tehsil levels should be sensitized about issues relating to bonded labour system so that they are able to identify and report the incidence of bonded labour system. Besides, representatives from Panchayati Raj Institutions and other village level functionaries should be encouraged to report the incidences of bonded labour system wherever the same exists.*
 - 3) *The Government agencies should take initiative to involve the voluntary agencies with record of honest and competent service for Scheduled Castes, Scheduled Tribes, agricultural labourers and other unorganized labourers, in the process of identification of bonded labour.*
 - 4) *Identification of bonded labour should be the part of any household surveys being done by the Revenue Department, or the Directorate of Economics and Statistics, Tribal Research Bureau and such other like agencies, and on the lines of the survey done by the National Sample Survey Organisation.*
 - 5) *Special studies and surveys may be undertaken in respect of stone quarries and brick kilns to locate bonded labour.*
 - 6) *The vigilance committees, be constituted under the Chairmanship of District Magistrates/Sub Divisional Magistrates.*
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- i) *All vigilance committees should be reconstituted in the manner envisaged in the law once in two years.*
 - ii) *It should be the duty of District Magistrate and the Sub-Divisional Magistrates to ensure that the vigilance committees constituted under their Chairmanship meet regularly.*
 - iii) *The vigilance committees should lay down certain guidelines for their proper functioning and the members, and the Chairmen of the vigilance Committees should make field visits for identification of the bonded labour system.*
 - iv) *On the basis of field visits and findings thereon, the vigilance committees should place concrete cases before the Executive Magistrate appointed under Sec. 21 of the Act.*
 - v) *Representatives from trade unions, NGOs and other social action group may be coopted as member in the vigilance committees.*
- 7) a) *The State Government should employ lady enforcement staff and also constitute State level committee to periodically visit establishments employing substantial number of migrant women.*
- b) *More and more women's organizations, voluntary agencies, social action groups should be involved in enforcement of the provision of the Inter State Migrant Workmen Act, 1979.*
- 8) a) *Efforts should be made to have authentic information about establishments employing sizable migrant labourers and also about areas, which either export or import migrant labourers.*
- b) *Surveys should be conducted to identify major areas exporting and importing migrant labourer.*
- 9) *In order to bring conceptual clarity to the definition of bonded labour, bonded debt and the bonded labour system prevalent in different forms in the country, it is considered necessary to make constant efforts to inculcate a sense of individual and social identity in the minds of people who are economically and socially deprived of their basic legitimate rights even after so many years of independence. It is necessary to highlight the impact of bondage on the lives of this exploited category of bonded labourers which tarnishes the image of civilised democratic society.*
- 10) *Evaluatory Studies/surveys may be undertaken at district and State levels to study the impact of existing land-debt related issues affecting bonded labourers and the impact of poverty alleviation programmes and financial assistance provided by various government sources so far.*
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- 11) *State government should conduct “Evaluatory Studies” every year through institutes of social Science Organisations, NGO of standing and repute, having professional experience in conducting evaluatory studies.*
- 12) *Awareness generation activities – In order to bring conceptual clarity to the definition of bonded labour, bonded debt and to inculcate a sense of individual and social identity in the minds of people who are economically and socially deprived, the Information and Public Relations Departments of the State Government would necessarily have to play a major role.*
- 13) *Rehabilitation Grants – The following process for rehabilitation of bonded labour should be adopted by the State Government.*
- a) *The District Magistrates would ensure the release of the identified bonded labourers on the basis of the reports examined through the Vigilance Committees;*
 - b) *They would also identify suitable schemes for the rehabilitation of bonded labour.*

** Reference : From Manual of NHRC.*

The Commission, therefore, recommended that proper guidelines to achieve desired objectives be issued to all concerned. Further, the Commission observed that if momentum is given for human rights education under the National Action Plan there shall be no delay in defeating the valuable human rights on account of non-implementation of mandatory statutory requirement.

The secretary to the Government of Maharashtra Labour Department has promptly acted upon these recommendations.

Conclusion:-

Child labour is a significant problem in India. The prevalence of it is shown by the child work participation rates, which are higher in Indian than in other developing countries. The condition is still worse in case of children with disabilities.

The major determinant of child labour is poverty. Even though children are paid less than adults, whatever income they earn is of benefit to poor families. In addition to poverty, the lack of adequate and accessible sources of credit forces poor parents to engage their children in the harsher form of child labour – bonded child labour. Some parents also feel that a formal education is not beneficial, and that children learn work skills through labour at a young age. These views are narrow and do not take the long term development benefits of education into account. Another determinant is access to education. In some areas, education is not affordable, or is found to be inadequate.

With no other alternatives, children spend their time working.

The Constitution of India clearly states that child labour is wrong and that measures should be taken to end it. The government of India has implemented the Child Labour Act in 1986 that outlaws child labour in certain areas and sets the minimum age of employment at fourteen. This Act falls short of making all child labour illegal, and fails to meet the ILO guideline concerning the minimum age of employment set at fifteen years of age. Though policies are in place that could potentially reduce the incidence of child labour, enforcement is a problem. If child labour is to be eradicated in India, the government and those responsible for enforcement need to start doing their jobs. Policies can and will be developed concerning child labour, but without enforcement they are all useless.

The state of education in India also needs to be improved. High illiteracy and dropout rates are reflective of the inadequacy of the education system. Poverty plays a role in the ineffectiveness of the educational system. Dropout rates are high because children are forced to work in order to support their families. The attitudes of the people also contribute to the lack of enrollment – parents feel that work develops skills that can be used to earn an income, while education does not help in this matter. Compulsory education may help in regard to these attitudes. The examples of Sri Lanka and Kerala show that compulsory education has worked in those areas. There are differences between Sri Lanka, Kerala and the rest of India. What types of social welfare structures do these places have? What are the attitudes of the people? Is there some other reason why the labour market for child labourers is poor in these areas? These are some questions that need to be answered before applying the concept of compulsory education to India? India is making progress in terms of educational policy. The DPEP has been implemented only four years ago, and so results are not apparent at this time. Hopefully the future will show that this program has made progress towards universal education, and eradicating child labour.

Child labour cannot be eliminated by focusing on one determinant, for example education, or by brute enforcement of child labour laws. The government of India must ensure that the needs of the poor are filled before attacking child labour. If poverty is addressed, the need for child labour will automatically diminish. No matter how hard India tries, child labour always will exist until the need for it is removed. The development of India as a nation is being hampered by child labour. Children are growing up illiterate because they have been working and not attending school. A cycle of poverty is formed and the need for child labour is reborn after every generation. India needs to address the situation by tackling the underlying causes of child labour through governmental policies and the enforcement of these policies. Only then will India succeed in the fight against child labour.

In the end, I quote Pandit Jawaharlal Nehru saying, ***“Children were like the buds in a garden. They should be carefully and lovingly nurtured, as they***

were future of the nation and the citizen of tomorrow.” He felt that ‘children are the real strength of a country and the very foundation of society’. Let us therefore make children worthy of our country.

