



Child Labour in India

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ABSTRACT

This research explores the role of the National Human Rights Commission (NHRC) in addressing the persistent issue of child labour in India. Established in 1993 under the Protection of Human Rights Act, the NHRC was created in response to international human rights advocacy and India's commitment to ethical labour practices following global economic liberalization. The NHRC functions as a quasi-judicial body with a mandate to investigate human rights violations, intervene in legal matters, and promote human rights literacy across the country. A significant focus of the NHRC is the protection and advancement of child rights, particularly in the context of child labour. Drawing from international conventions such as the United Nations Convention on the Rights of the Child (UNCRC) and the International Labour Organization (ILO) Conventions, the paper outlines how child labour remains prevalent in various sectors such as agriculture, manufacturing, and domestic work despite legal prohibitions. The report also examines national constitutional provisions and legislation, including the Child Labour (Prohibition and Regulation) Act, the Juvenile Justice Act, and other relevant laws. Gender disparities, socio-economic pressures, and gaps in enforcement are highlighted as critical challenges. The NHRC's role, while essential, is limited to recommendations, making collaboration with civil society and international bodies like Save the Children crucial for effective advocacy and systemic change in combating child labour in India.

Keywords:- *Child Labour, National Human Rights Commission (NHRC), Child Rights, Human Rights Violations, International Labour Organization (ILO)*



Introduction

Function of human right commission

India's National Human Rights Commission (NHRC) was created in 1993, as a response to increasing international awareness of human rights, after India entered the global economic arena. The United Nations Human Rights Commission adopted the "Paris Principles", a guiding light for resolving international human rights issues. For India, it was critical to secure international trade partnership and show compliance with global labour standards, including a refusal to support unethical practices like child labour. While human rights were enshrined in the Indian Constitution, it was the lack of a system to protect and safeguard against exploitation that made it necessary to support charities fighting for children's rights in India. Therefore, the Human Rights Commission in India, armed with a defining intent of protecting human rights, provided a definitive framework to NGOs in India, and other initiatives working in the fields of indigenous human rights.

The National Human Rights Commission in India derives its power from The Protection of Human Rights Act (TPHRA). Its composition enjoys a robust legal fortitude, with a panel that features former judges of the Supreme Court, High Court, and people experienced in human rights policy and execution. It is presided by a retired Chief Justice of India, and Chairpersons of national commissions of key human rights concerns - Minorities, India's Scheduled Classes and Tribes, and Women.

The Functions of the National Human Rights Commission

NHRC today enjoys a very wide mandate, receiving over 70,000 complaints every year. Through recommendations and requests for inquiries, the Commission seeks to resolve human rights violations across India.

Legal proceedings

It also can intervene in human rights proceedings, which may be pending before the court. NHRC officials visit jails to inspect living conditions for inmates incarcerated for treatment, reformation or protection.

Instrument of policy

As a body to oversee policy, the NHRC can review and make recommendations in Constitutional and legal safeguards. It can also review international treaties and events that may compromise human rights.



Human Rights Literacy

The NHRC also serves as the basis of human rights literacy in India, initiating awareness of rights through publications, media channels, seminars etc. Common themes in India's contemporary human rights violation history include labour law, extrajudicial killing, sexual violence and LGBT rights, violence and discrimination against women, children and minorities.

Child rights in India: a vital function of the NHRC

Child rights are often considered the most critical of all human rights reforms as they define the future for both current and upcoming Indian generations. "Children's rights" have radically changed; from the Middle Ages, which refused to recognise the concept of a childhood and saw children work side by side with adults, to today's understanding of nurturing a child's unique identity while providing them access to necessities. Children's rights apply to the special protection and care that minors under the age of 18 are provided. Based on international legislations, these include the right to association with both parents, physical protection, food, free education, healthcare, and legal protection from violence or discrimination.

Eglantyne Jebb's work: the basis of contemporary children's rights

Contemporary standards for children's rights find their basis in the Universal Declaration of Human Rights. The influence of the iconic 1923 document by EglantyneJebb, the Declaration of the Rights of the Child resonates with child rights to this day after it was adopted by the United Nations. Jebb, founder of 'Save the Children' became a children's rights defender after seeing the suffering of innocent German children in the aftermath of World War I. After participating in a project that imported European newspapers, she was among the first to see the horrifying hardships that children in warring countries were facing. British forces decided to blockade off resources to Germany, and Eglantyne protested, by demonstrating its ill-effects on innocent children.

Her vision, of no child anywhere in the world exposed to hunger or hardship forged the strong Save the Children spirit. Once just a fundraising effort for German kids in the wake of World War I, Save the Children grew into a relief initiative that would soon provide aid to projects involving children, including the refugee crisis in Greece and the post-war famine in Soviet Russia. As developing a broader insight towards children's rights, Jebb presented a short concise 'Children's Charter', to the then International Union, which envisioned prioritizing children's needs for any national planning activities. This



was The Declaration of the Rights of the Child, which was soon expanded and inspired the United Nations 1989 UN Convention on the Rights of the Child.

Our position is arrived at based on the legislative framework, our own experience on the ground and most importantly, on evidence of what is in the best interest of the child. Save the Children, India believes that work in all its forms, paid or unpaid in any processes or occupations (agriculture, manufacturing and services) which affects the proper and full development of a child should be prohibited for all children up to the age of 14 on an urgent basis and they be provided with quality education and enabling environment for their all-round development. For 15–18 year olds, work should be strictly regulated and only permitted in a decent work environment.

India is a signatory

According to the UNCRC, a child is defined as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.” Millions of children engage in work or activities but there are certain types of work that are considered harmful that come under the category of child labour and hence prohibited. Article 32 of the UNCRC “recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be harmful 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.”

The ILO Convention, 1973 (No. 138) states that, “Any work which is likely to jeopardize children’s physical, mental or moral health, safety or morals (is hazardous and) should not be done by anyone under the age of 18.” It states that “the minimum age for work should not be below the age for finishing compulsory schooling and in any case not less than 15”. It also states that “Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training”.

Additionally, the Worst Forms of Child Labour Convention, 1999 (No. 182); ILO obligates State parties to commit to work on prohibiting and phasing out worst forms of child labour. The worst forms of child labour as recognised in the convention include: child slavery; child trafficking; child prostitution; use of children for crime and drug trafficking; and any work that affects the safety and moral of children. The convention states that the country’s government has to hold consultations with employers and workers to identify the worst forms of labour. It states that the governments will be responsible for starting



programs to eradicate child labour in these sectors and will establish or designate appropriate mechanisms to monitor the implementation of the convention. The convention however does not set a deadline by which worst forms of child labour will be eliminated.

The New Sustainable Development Goals which have been agreed and signed by Governments (including India) urge governments to commit that “By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes”. It also states that governments should “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including the recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”

National Framework

In India, there are several constitutional and legislative provisions that deal with child labour. Article 24 of the Constitution of India protects children below the age of 14 against being employed in any hazardous activities, whereas Article 23 prohibits trafficking and forced labour. Article 21A specifically states the right to education for all children between the age of 6 and 14. In addition to the fundamental rights, Article 39 under the directive principles requires the States to ensure that children are protected against abuse and not forced to enter a vocation not suited to their age or strength. Moreover, Article 15 of the constitution enables the government to make such laws and policies that protect the rights of children and ensure their well-being.

In addition to CLPRA, there are several other legislations that deal with child labour in India. The Factories Act 1948, The Plantation Labour Act 1952, The Mines Act 1952, The Merchant Shipping Act, 1958 The Motor Transport Workers Act and The Beedi and Cigar Workers (Conditions of Employment) Act 1967 set out minimum age of employment for children and regulate working conditions such as time and hours of work. The Bonded Labour System (Abolition) Act, 1976 prohibits any form of bonded or forced labour in the country. The Juvenile Justice Act 2000 is another important legislation that deals with rehabilitation, care and protection of children in need of care and protection or children in conflict with law. Rehabilitation of child labourers is done in accordance with the provisions under this law. Under the JJ Act a child in need of care and protection is defined as being under the age of 18. Hence we see that definitions of who is a child are different under different legislations.



Trends in child labour in India

Census of India 2011 suggests that the employment of children as agricultural labourers emerge as the largest category.[2] Child workers are employed in a range of agricultural activities and processes ranging from cotton and cottonseed production to sugarcane, soyabean and paddy transplantation. According to a study conducted by DRMU[3], majority of workers in the cotton fields were below the age of 18 years (78.8 percent) and at least 31 percent were below the age of 14. According to this study, the working hours were the same for all workers, ranging from 8 to 12 hours. Children reported being paid a sum of Rs. 50 for a day's work. Wages were paid at the end of the work period and not on a daily or monthly basis. Working and living conditions were reported to be poor, with complete lack of toilet facilities. Workers invariably reported sleeping on the floor and cooking in the open.

Manufacturing is also emerging as a top sector where children are found to be working. An example of child labour in manufacturing sector is the garment industry. It is mostly found in small, owner-operated enterprises or home based forming the non-factory and unorganized sector of the garment industry. Save the children's report on the garment industry in Delhi (2015)[4] found that the working conditions of children employed in the garment industry are poor and pose exposure to risks and hazards like loud noise, poor lighting, poor ventilation and sharp tools. Long hours of work, complains of back pain, poor posture and deteriorating eye sight are some of the problems faced by children in the garment industry. Children mostly work in households (87%), are poorly paid and receive no benefits and with 36 percent of those working at home not paid at all.

Additionally, there are a number of occupations such as beedi and cigarette making, construction including brick kilns, domestic workers, spinning and weaving, fireworks, etc. that employ child labour.[5] In these industries, employment is seasonal ranging from 3 to 8 months and children move along with parents and sometimes along to work. Many of these children who work in these industries are invisible. Data from NGOs show that many of the children who are enrolled into schools are involved in seasonal child labour. It has been also noted that there are a number of children who are not enrolled in schools and are also not part of the child work force. Children who are neither attending school, nor are recorded as working children are a "reserve child labour" force. As the 61st Round of NSSO shows, there are clearly more people who are now self-employed and children often end up helping their parents in such occupations.



Child Labour and Gender

Girls work participation rate in total female workforce is higher at 6.29 per cent as compared to that of boys within male work force, which stands at a relatively lower 4.32 per cent^[6]. According to a comparative analysis of child labour (2001 to 2011) by Child Rights and You (CRY) in 2015 states that in urban areas while the number of working girls rose by 240 per cent, it increased by 154 per cent for working boys. Overall, there has been a 53 per cent increase in child labour in urban India, while there is a drop of about 29 per cent in rural areas.

Conclusion:

Clearly the NHRC, with special regard to children's rights, is a formidable entity. However, while it enjoys formidable legal strength on its panel, it is limited as it can only make recommendations, and cannot enforce decisions. International pressure, from NGOs like Save the Children is often needed to petition the NHRC to convince agencies and government divisions to actively pursue grievances.

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