

Child Rights and Girl Child Labour: A Case Study of Banasthali Village in Rajasthan in India

Dr. Anupma Kaushik

Associate Professor
Dr Harisingh Gour University
Saagr, MP, India.

Dr. Priyadarshini Purohit

Assistant Professor
Banasthali Vidyapith, Rajasthan, India.

Abstract

India has the largest child population in the world i.e. almost 19 percent of the world's child population. The constitution of India expresses concern for upbringing of children in safe, secure and healthy manner through various provisions in the constitution. However millions of children exist below poverty line and are malnourished and many of them die. Many children spend their childhood working either due to poverty or due to lack of awareness on the part of parents. India does not provide even basic facilities for livelihood to majority of its children however it's a wonder that children do not grow up to be criminals. It's high time that the Government must help these children by sending them to school and helping their families to cope with extreme poverty.

Key words: Child rights, Child labour, girl child, Banasthali, Rajasthan, India

Child Rights Children comprise about fifty percent of the earth's population and are its most vulnerable component. They are dependent on adults, can be manipulated and are particularly susceptible to all kinds of influence, both physical and mental. (Kolosoov, 2002, 260) As minors by law children do not have autonomy to make decisions for themselves. The younger the child the more vulnerable physically and psychologically he/she is, hence the need for protection of children. As per United Nations Convention on Rights of the Child (UNCRC) 1989 a child is any person below the age of eighteen years. The concept of children's rights is a rather new one. Earlier children were regarded as property of fathers who were expected to take care of their welfare and their lives were strictly monitored. (Ansari, 2006, 191) When treated as property, children were not always treated properly. Beating children was common in ancient Greece, Rome, and medieval Europe. Efforts were made to move children from the status of property to that of person with rights and this resulted in less abusive treatment of children. (Pachauri, 1999, 14-15) However not until the 19th century did children begin to be recognized requiring special attention to limit the exploitation of child labour, to provide basic education, to ensure some form of financial support for the most dependent, and to prevent extreme cases of neglect. (Pandey, 1993) In 20th century the focus shifted from welfare to rights with the realization that children's welfare is not always taken care of by their guardians or parents.

In 1924 the League of Nations adopted the Geneva Declaration of the Rights of the Child, which established children's rights as means for material, moral and spiritual development; special help when hungry, sick, disabled or orphaned; first call on relief when in distress; freedom from economic exploitation; and an upbringing that instills a sense of social responsibility. In 1948 the UN General Assembly passed the Universal Declaration of Human Rights, which referred in article 25 to childhood as "entitled to special care and assistance." In 1959 the UN General Assembly adopted the Declaration of the Rights of the Child, which recognized rights such as freedom from discrimination and the right to a name and a nationality.

It also specifically enshrined children's rights to education, health, care and special protection. 1979 was declared as the International Year of the Child. In 1989 the UN General Assembly unanimously approved the Convention on the Rights of the Child, which entered into force the following year. In 1990 the World Summit for Children was held in New York. The leaders signed the World Declaration on the Survival, Protection and Development of Children as well as a Plan of Action for implementing the Declaration, setting goals to be achieved by the year 2000. In 1999 the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was adopted. In 2000 the UN Millennium Development Goals incorporate specific targets related to children, including reducing sale of children, child prostitution and child pornography. In 2002 the UN General Assembly held a Special Session on Children, meeting for the first time to specifically discuss children's issues.

Thus child rights came to be defined as human rights with particular attention to the rights of special protection and care afforded to the young. The objective was to ensure every child the right to survival; develop to the fullest; protection from harmful influences, abuse and exploitation; and participate fully in family, cultural and social life. The four core principles of the UNCRC Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. By agreeing to undertake the obligations of the Convention, national governments have committed themselves to protecting and ensuring children's rights and they have agreed to hold themselves accountable for this commitment before the international community. They are obliged to develop and undertake all actions and make policies in the light of the best interests of the child. (Rai, 2000, 176)

Condition of Children in the World Despite the near universal ratification of the UNCRC, and the addition of two Optional Protocols, child protection is weak in much of the world. While governments appear to agree with the principle that children should not be abused, trafficked, exploited or exposed to hazardous labour, their commitment to creating and sustaining a protective environment for children is less clear. The rights of over one billion children – more than half the children in developing countries – are violated because they are severely underserved of at least one of the basic goods or services that would allow them to survive, develop and thrive. In the developing world more than one in three children does not have adequate shelter, one in five children does not have access to safe water, and one in seven has no access whatsoever to essential health services. Over 16 per cent of children under five lack adequate nutrition and 13 per cent of all children have never been to school. There are 2.2 billion children in the world of which one billion live in poverty i.e. without adequate shelter, safe water and health facilities. About 121 million children are out of education worldwide and the majority of them are girls. 10.6 million children die before they reach the age of five. 1.4 million die each year from lack of safe drinking water and adequate sanitation. 2.2 million children die each year because they are not immunized and 1.5 million children are orphaned due to HIV/ AIDS. (The State of World's Children, 2013)

Condition of Children in India The constitution of India expressed concern for upbringing of children in safe, secure and healthy manner through various provisions in the constitution. Accordingly Article 15 (3) enables the state to make special provisions for children. Article 24 explicitly prohibits child labour and hazardous employment of children. Article 39(f) further directs the state in its policy towards the well-being of the children. (Shastry, 2005, 246) Article 39 (c) provides that children of tender age should not be subject to abuse and should be given opportunities to develop in a healthy manner. Article 45 makes provision for free and compulsory education for children. Article 47 states that it is the duty of the state to raise the level of nutrition and standard of living and to improve public health. The courts in India have stated that a child cannot be treated as an inanimate object or like a property by the parents. (Tripathi and Arora, 2010, 344-345) Moreover many laws have been made for welfare of children as well as for prevention of crime and abuse. Foeticide is a crime under section 315 and 316 of IPC and infanticide is a crime under section 315 of IPC. Abetment of suicide is a crime under section 305 of IPC and exposure and abandonment of children by parents or others is a crime under section 317 of IPC. Kidnapping is a crime under sections 360, 361, 384, 363, 363 A (kidnapping for begging), 366, 367, 369 of IPC. Procuring of minor girls is a crime under section 366 A of IPC and selling of girls for prostitution is a crime under section 372 of IPC. Buying of girls for prostitution is a crime under section 373 of IPC. Rape and unnatural offences against children are also crimes under IPC. There are certain crimes against children which are punishable under special and local laws such as immoral traffic prevention act, child marriage act and child labour act. (Pachauri, 1999, 3-5) The child labour act banned child labour in hotels, restaurants and as domestic servants

The Government of India passed the Children Act 1960 to introduce uniformity and to establish separate child welfare boards to handle cases relating to neglected children. In 1974 the government adopted a National Policy for Children. (Dabir and Athale, 2011, 146) The Indian legislature has enacted several legislations to improve and protect lives of children. The Juvenile Justice (Care and Protection of Children) Act 2000 and its amendment in 2006, and Right to Education Act 2009 are significant in this regard.

India has the largest child population in the world i.e. almost 19 percent of the world's child population. (Dabir and Athale, 2011, 146) However it is estimated that the working children in India are 44 million. Ninety two million children exist below poverty line and are malnourished. (Stephen, 2002, 101) Over 2.1 million children die annually before reaching their fifth birthday and one child dies every three seconds. (Sinha, 2008) There is hardly any day when a child is not raped, kidnapped or abandoned. Children also face foeticide, infanticide, violence, child marriage, buying and selling (Rehman, 2000, 56-57), illiteracy, abuse, malnutrition, bondage and death etc. Children are victims of many crimes however the crimes reported most are: rape, kidnapping, abduction, buying, selling, abetment of suicide, exposure, abandonment, infanticide, foeticide and child marriage. (Pachauri, 1999, 6) Children also become victims of neglect, abuse and child bondage or slavery. (Khanna, 1998, 42) Many children also come into conflict with law (Barooah, 1992, 257) while many others spend their childhood working or labouring either due to poverty or under threat. Estimates are that there are 2 crore 26 lakh children as full time workers and 1 crore and 85 lakh a part time workers of the total population of 22 crore children amounting to 22 percent of Indian population. They are working in both organized as well as unorganized sector.

Girl Child: Girl children are even more vulnerable because India is a patriarchal traditional society where son preference is widespread. Amartya Sen says South Asian countries have a terrible record in gender inequality which is manifest in unusual morbidity and mortality rates of women. (Sen, 2006, 207) Girls are denied education and other facilities more often than boys as in patriarchy boys are more useful to parents than girls. Parents prefer to send sons to school and daughters are asked to help in household chores and upbringing of younger siblings or else go out and earn some money for the family. The data on sex ratio, literacy rate, work participation, gender related development index etc clearly demonstrates the subordinate position of women in India. To illustrate as per census 2011 sex ratio is 940 females per 1000 males. Literacy rate is 75 percent for men and 53.7 percent for women. Work participation rate is 51.7 percent for men and 25.6 percent for women. Scholars like Ramchandra Guha also accept that as an axis of discrimination, gender is more pervasive than others. (Guha, 2008, xx) The Indian constitution and society has failed its women in practice. Majority of women do not enjoy the rights and opportunities guaranteed by the constitution. In fact Indian society has regressed from the norms developed during the freedom movement. (Guha, 2008, 471)

Case Study: A study was conducted in 2008 to understand the condition of girl child labourers in Banasthali village of Tonk district of Rajasthan. There were 200 girls in the village in the eight to 17 age group and of them 30 girls were working girls and they were included in the study which used interview, observation and schedule to study these girls in January 2008. 23 percent girls were in between eight to fourteen years and 73 percent in between 15 to 17 years. 13 percent girls were illiterate, 57 percent had primary education, 27 percent had secondary education and three percent had higher secondary education. 87 percent had gone to school but 13 percent had never been to school. Not a single girl was going to school at the time of the study. 30 percent left study due to work, 27 percent left because they were not interested in studies and 43 percent left studies due to varied reasons ranging from poverty, illness of mother, family responsibilities, marriage, coeducation, scared of teachers and distance of school from home. 63 percent wanted to rejoin studies while 37 percent were not interested in studies. All girls knew that education is beneficial in life. 93 percent girls were Hindu while six percent were Muslims. 36 percent were from general category, 32 percent were from schedule caste and 32 percent were from other backward castes.

23 percent girls had a small family of up to four people while 77 percent had family consisting of more than five members. 77 percent respondents had both parents while 23 percent were orphans. Fathers of respondents were farmers, labourers, small business men, or in petty jobs while mothers of 30 percent were housewives and 60 percent were farmers, labourers, small business and jobs. 87 percent girls stayed with their family, 10 percent stayed at the workplace and three percent lived with maternal grandmothers. Both parents of seven percent respondents were educated, while one parent of 50 percent respondents was educated and 43 percent respondents had illiterate parents. 66 percent respondents said their father fulfilled needs of family, 17 percent said their mothers fulfilled needs of family and 17 percent said both parents together fulfilled the needs of the family.

Family income of 33 percent respondents was in between Rs 1000 and 2000 per month, and family income of 67 percent respondents was in between Rs 2000 and 5000 per month. 57 percent lived in mud (*kaccha*) house while 43 percent lived in brick (*pakka*) house. 23 percent had toilet in the house while 77 percent didn't have toilet in the house.

All respondents said they get enough food to eat and had enough clothes and bedding. 79 percent girls and 37 percent boys complaint of lack of clothes and bedding. 83 percent respondents took bath everyday and brushed their teeth every day. 57 percent respondents did not have books and toys. Seven percent respondents did not have any means of entertainment. Three percent respondents did not have friends. 93 percent respondents received affection regularly at home while seven percent received affection occasionally. 67 percent respondents had a family member addicted to alcohol. 17 percent respondents were abused at home. 30 percent girls and 11 percent boys were abused at home. All said the atmosphere in the neighborhood was good. 87 percent respondents were in good health while others were in normal health.

90 percent respondents liked their work while 10 percent did not like their work. Seven percent respondents had been working for less than two years while others were working since more than two years. 77 percent respondents were house maids and 23 percent were sweepers. 33 percent respondents had regular job while 67 percent had to look for work every day. 50 percent respondents earned less than Rs 2000 per month, while 50 percent did not get any wages. 50 percent respondents believed that they were getting paid according to their work. 30 percent respondents gave their earnings to their mothers, seven percent to their fathers, 13 percent kept their earnings. 67 percent work against their will and due to pressure from parents while 33 percent worked because they wanted to work. 67 percent respondents faced scolding if they refused to work.

40 percent respondents worked less than two km from their residence, 17 percent worked three to four km away from their residence and 43 percent lived at their workplace. 36 percent respondents worked whole day, seven percent worked for nine hours per day and 57 percent worked for eight hours a day. Nobody worked during nights. 23 percent respondents got weekly holiday while 77 percent did not get weekly holiday. 50 percent respondents got holiday during festivals while 50 percent did not. 50 percent respondent received payment for holidays while 50 percent did not. 60 percent respondents received food at the workplace while 40 percent eat their own food. 27 percent received help during illness while 73 percent did not. 70 percent respondents received gifts from the employer but 30 percent did not. All respondents got time to rest during work. Behaviour of employer was good for 75 percent respondents while 25 percent complained of bad behavior of employer. All respondents had toilet and water facilities at workplace. 87 percent respondents did not want to leave their job while 13 percent wanted to leave their work. 27 percent respondents wanted to get married, 27 percent wanted to study, 33 percent did not want to do anything after leaving their work and 13 percent did not wish to stop working. Only 36 percent respondents believed that their families' economic condition improved after they started working. 87 percent respondents believed that children should not work but 40 percent respondents believed that they should work. None of the respondents were aware of law relating to ban on child labour.

Causes of Child Labour:

- 1- Poverty/ Need- Most children work because they and their parents are very poor and some have lost their parents due to death. The money that these children take home as wages makes a difference to their lives. They probably do not have any alternative. In this case study family income of 67 percent respondents was less than Rs 5000 per month while that of 33 percent was less than Rs 2000 per month. 57 percent respondents lived in *kaccha* (mud) house. 77 percent respondents did not have a toilet in their homes
- 2- Family pressure- Some families are really poor and they pressurized their children to work. 37 percent children give the money to their parents. 67 percent respondents faced scolding if they refused to work.
- 3- Availability of children on minimal remuneration- Almost all the children were getting less than Rs 2000 per month. This is economically profitable to the employer as an adult worker would be charging much more than this amount.
- 4- Amenability to discipline- Its easier to scold and discipline a child in comparison to an adult. Hence many employers prefer to engage children instead of adults.
- 5- Peer and sibling motivation- Children see other children working and earning money and they also wish to have money so they also start working.

- 6- Illiteracy and lack of Awareness- Both parents of 43 percent respondents were illiterate and 13 percent respondents themselves were illiterate. Currently none of the respondents were attending school. 30 percent respondents said they left school because they had to work, 27 percent said they were not interested in studies and others left school due to various other reasons such as illness of mother, poverty, co education etc. not a single respondent was aware of law relating to ban on child labour.
- 7- Failure of government schools and lack of social security schemes by the government or Failure of governance- It seems these children are visible to everyone but the government. There seems to be no initiative from the side of government to help these children lead a dignified life and to put them into schools. 27 percent children said they did not like studies. This is a widespread problem for children belonging to poor and illiterate families. Teachers in government schools are not affectionate while teaching and corporal punishments are common. Children who fail to perform in studies are punished instead of being helped at school and parents are unable to help as they are themselves illiterate. Hence children prefer to drop out of schools.

III Effects of Child Labour:

- 1- Sexual exploitation.
- 2- Physical exploitation.
- 3- Psychological exploitation.
- 4- Limiting development.
- 5- Criminal tendencies.
- 6- Impact on health.
- 7- Leads to child deaths.
- 8- Leads to illiteracy.
- 9- Breaks laws.
- 10- Retards growth of the country.

Suggestions:

- 1- Ensuring 12 years of compulsory quality skill based schooling for all children.
- 2- Scholarship for poor students to cover all their needs and compensation to parents in form of stipend on the basis of attendance.
- 3- Quality mid day meal program.
- 4- Sympathetic teachers and child friendly environment in schools and complete banning of corporal punishment.
- 5- Good orphanage/ shelter homes for children without close relatives.
- 6- Publicity about law banning child labour.
- 7- Punishment to employers of child labour.
- 8- Sufficient work remuneration for adults.
- 9- Family planning and medical help so that parents do not have too many children.

Thus a holistic approach to tackle the problem of child labour is needed, which combines compulsory education to children, financial assistance to children in need and good schools. In other words the government needs to formulate and implement its policy regarding child labour holistically.

References

- Ansari, M. R (2006), *Protecting Human Rights*, New Delhi: Max Ford Books.
- Barooah, Pramila Pandit (1992), *Handbook on Child*, New Delhi: Concept Publishing
- Dabir, Neela and Athale, Naina (2011), *From Street to Hope*, New Delhi: Sage.
- Guha, Ramchandra (2008) *India After Gandhi*, London: Picador.
- Khanna, S K (1998), *Children and the Human Rights*, New Delhi: Commonwealth Publishers.
- Kolosov, 'The Rights of the Child', Janusz Symonides (ed), *Human Rights: Concepts and Standards*, Rawat, Jaipur, 2002.
- Pachauri, S. K.(1999), *Children and Human Rights*, New Delhi: A P H Publishing Corporation.
- Pandey, Rajendra (1993), *Street Children of Kanpur*, Noida: National Labour Institute.
- Rai, Rahul (2000), *Human Rights: U N Initiatives*, Delhi: Authors Press, Delhi.
- Rehman, M. M. and Rehman, Kanta and Chauhan, Poonam S and Begam, Syed Mehartaj (2000), *Human Rights: Human Development*, New Delhi: Manak.
- Sen, Amartya (2006) *The Argumentative Indian*, New Delhi: Penguin.
- Shastri, T. S. N.(2005), *India and Human Rights- Reflections*, New Delhi: Concept.
- Sinha, Kounteya (2008, January 24) 'Every Three Seconds One Child Dies in India: UNICEF', New Delhi *The Times of India*.
- Stephen, M (2002), *Human Rights: Concepts and Perspectives*, New Delhi: Concept.
- The State of World's Children, (2013) Retrieved on 8 September 2013, from <http://www.unicef.org/sowc05/english/sowc05.pdf>
- Tripathi, S. C. and Arora, Vibha (2010), *Law Relating to Women and Children*, Allahabad: Central Law Publications.