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LAW, AND SOCIAL **TRANSFORMATION IN INDIA**

Authored By: Awale Jayashree Lalasaheb

Llm Ii, Semester Iii

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STREET CHILD EDUCATION IN INDIA

Abstract:

Education plays a very significant role in transformation and development of the individual and the society. The Education system does not function in isolation from the society of which it is a part. Unequal social, economic and power equations deeply influence children's access to education and their participation in the learning process. The street children's access to education is one of the major issues in most of the developing countries. Since independence, India is facing several challenges such as poverty, illiteracy, child labour, caste discrimination, and child marriages. The street children were used as child labour in mining, and illegal trade activities. However, India adopted several to strengthen the access and right to education of the street children.

Keywords: Street Children, Access to education, Right to education

INTRODUCTION :

" The Sight of a child - a boy or a girl without adequate food or clothing or house to live in always produces a sense of shock in me as well as a sense of share " - Jawahar Lal Nehru

Today , we can often see a pathetic situation of the rag pickers fighting to collect leftover food items near a dustbin in a street corner in a metro city in which the site was very ugly . unhygienic and full of stench and none dares to step in for the fear of getting infected with deadly contagious diseases . Because we are so inhuman , insensitive and unconcerned for he fellow beings in the society . The main focus of this article is to highlight the plight of the unfortunate hapless section of our society and analyse about the ameliorative measures needed to rehabilitate them for a better living in the society . Street children in our country

are in a sizeable number as such there is a dire need for the governments at the Central and State level , N.G.O's other welfare societies and organizations to render necessary services to uplift them and make them acceptable to the society . Needless to say the street children in India is a socio - legal issue which has assumed greater significance and got coverage in the whole world . It is the right time for all the intellectuals , N.G.O's and other voluntary organizations to come forward with strong determination , study this problem on humanitarian grounds and render all assistance , guidance to enable them to get away from such miserable

life , look for green pastures and lead normal life . The street children problem can be studied from different angles viz , Human Rights , Child Protection Laws , Fundamental Rights and Directive Principles of State Policy under the Constitution of India , Juvenile Delinquency Act etc so as to do justice to them wholeheartedly and mitigate the loss caused to them economically and sociological at the very tender ages . to man Today , we live in the world 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 reasons . The human rights of children has always been an area of concern . It is at the most violation destructive end , where children are used as labourers or workers or slaves in particularly hazardous conditions to repay the debts incurred by their parents a grandparents . Many times the industrialists engage child labourers to gain more profit without giving them adequate remuneration . In situations of poverty , neglect , abuse , and desperation -children run away from home and seek a better life on the street . It is a normal human reaction to escape pain and suffering and to seek freedom and safety .¹ Street children ' move from their homes to the street from ages as young as four , through the teenage years . Few have successfully completed their schooling . and many suffer from gaps in their social and cognitive development as a result . The psychologist Abraham Maslow contends that people with such a social background often lose confidence in their most basic abilities , leaving them disempowered and unable to make informed life choices . This assessment applies both to the initial decision that children make to leave home and escape to the street , and to the choice to remain living on the street that they exercise on a daily basis , in defining street children , UNICEF classifies them in two categories : street working and street living . Most children that are commonly referred to as ' street children in the developing world actually live at home but spend much of the day working in the streets .

1 1 Maslow , Abraham . (1954) , Motivation and Personality . New York : Harper and Brothers , 89191 .

This paper addresses only the latter category , street living children , for whom their primary home is the street , who live independently and away from their parents and without adult supervision and care . Most children move to the street in search of realization of basic needs and not merely as an escape from the tedium of home life or the desire to express their independence by leaving 1 Maslow Abraham (1954) Motivation and Personality New York : Harper and Brother 89.91

friends and family . Running away from home is an act of resistance and an expression of absolute frustration with life circumstances . It is the strongest possible response to poverty and abuse that children in circumstances of deprivation and vulnerability can exercise . Their home life and street life are both defined by two major forms of deprivation of basic needs . that are essential for healthy child development and socialization : a sound family life defined by supportive parents and intimate relationships , and adequate social provisions of food , shelter , clothing , and quality schooling . Typically , neither in the homes where they previously lived , nor on the streets where they have come to establish a new life are these needs met².

Street children typically face danger on a daily basis ; their lives are threatened in a myriad of ways . Human Rights Watch reports that , Street children throughout the world are subjected to routine harassment and physical abuse by police , government , and private security forces , out to wipe the streets clean of a perceived social blight . Street children face extortion , theft , severe beatings , mutilation , sexual abuse , and even death³.

High rates of disease and infection amongst street children are indicative of the health hazards of street life⁴. A study of street children in Dares Saalam , Tanzania revealed the extent of disease transmission and unhygienic living conditions amongst street children

All mentioned having suffered from malaria (fever) , diarrhoea , and stomach related illnesses , coughing and other respiratory diseases ... Infectious diseases seem to be common among street children . Certainly this is a result of a variety of predisposing factors which include unsafe and unhygienic sleeping areas , the shortage or lack of safe drinking water , unsafe food leftovers and food collected from garbage bins ... They have difficulty accessing sufficient fresh and nutritious food , clean water , reliable shelter , bathing and toilet facilities and health care^{5,2}.

² Trussell , Robert . ' The Children's Streets : An Ethnographic Study of Street Children in Ciudad Juarez , Mexico International Social Work . 42 , 2 . (190)

Protection of Rights of Child: International Perspective

There is a lot of information and data put together in the form of treaties, conventions, and international resolutions, mainly from the United Nations (UN). It is likely that the numbers are increasing with every next day, and the governments around the globe are not putting on much effort into this issue. These are some of the most paramount acknowledgements by powerful authorities on the suppression of rights of street kids are as follows:

General Comment 21 on the **Convention on the Rights of the Child**, issued by the Committee on the Rights of the Child in its General Comment 21 “provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child.” The convention highlights the basic and most intrinsic themes in the context of street population: child rights approach; civil rights and freedoms; family environment and alternative care; disability and health; education, leisure and cultural activities; and violence against children and special protection measures.

UNICEF (United Nations Children’s Fund) in 2002 stated that there are more than 100 million street children across the globe, although this statistics is fairly doubted by many agencies and NGO’s who are righteously contributing. A UNICEF study found that almost 40,000 children die every day in developing countries, 25% of whom are in India.

The general comment 21 was once again highlighted in the agenda for sustainable goals for the year 2030 as the secretary general’s report on SDG’s in the year 2017, which ignored some major initiatives to be taken for the secluded children who mostly remain non-surveyed and less informative about their own existential value. It has been tried to fill this void at its best by introducing collection of reliable data in an inclusive way.

UN Convention on Rights of Child also called CRC/UNCRC was adopted in 1989 on the

3 Human Rights Watch , 1- Human Rights Watch Report : ' Promises Broken . ' Human Rights Watch . <http://www.hrw.org/ children / street.htm>

4 Lugalla and Mbwambo , 335-337- Lugalla . Joe and Mbwambo . Jessie Kazeni . ' Street Children and Street Life in Urban Tanzania : The Culture of Surviving and its Implications for Children's Health . ' 1999. Blackwell Publishers .

5 Better Care Network, available at: UN CRC General Comment No. 21 (2017) on children in street situations | Better Care Network

anniversary of declaration of child of rights which is an international statement on social, economic, cultural, civil and political rights of children by the UN General Assembly. It is ratified by 196 countries to ensure the fulfillment of every child's basic needs to meet their complete potential. In addition to this, CRIN (Children's Rights Information Network) established in 1983 also covers about the protection of special children who needs more attention than others due to their social and economic vulnerability.

Reasons of Street children to work :

According to WHO, 'while some children are lured by the promise of excitement and freedom, the majority are pushed onto the street by desperation and realization that they have nowhere else to go.' Some major push factors (that forces a population to leave) and pull factors (that attract a population to a new place) are mentioned here as:

DRUG-ABUSE/ADDICTION:

A major force that pushes a little child into the street world is the use of harmful drugs and other agents of addiction. Mostly, small children from distorted families with wrecked relationships also get convinced by agents of criminal gang in big cities. They easily get exposed to dangerous elements by unknown strangers, and their intakes without any prior knowledge about the substance make innocent children easily fall into prey. In furtherance, the child gets forced in illegal activities such as forced labor and sexual exploitation by criminal gangs.

MIGRANT FAMILIES:

Our nation faces a colossal challenge of migration every year, which displaces many families from their demographical homeland, which in turn results in major unemployment. In search of livelihood and earning money, many migrant families struggle to even afford basic amenities, due to which working for the younger population become a compulsion. Thus, children turn to juvenile crime.

LACK OF EDUCATION:

Education is something which is a necessity in today's world, and making it accessible for poor kids is already observed as a Herculean task by several governments. Right to education

is a basic right entitled to every child below the age of 14 years, but as stated above also, the lives of street kids transforms into a horrific reality by indulging within fragile and vulnerable groups having delinquent connections.

POVERTY:

The biggest factor that determines the status of street children in India is the extreme level of poverty faced by a huge portion of people in our nation. It has been noticed in the trend that most of the children that leaves or runaways from their house do it for strategic reasons, like in search for finding better living conditions and mental health. In return of this escape, the usual result is violence, separation from family members and slavery in its most cruel form.

Constitutional provisions for the protection of Street children in India :

The key to development of any country requires a healthy youth. But the void automatically appears at the stage, where a specific community lags behind. It should be ensured that every child gets to live a normal life without any inhumane intervention from the surrounding. Although there is a plethora of constitutional provisions and legal safeguards with respect to protect children against exploitation, abuse and harassment, implementation is still a bigger fish. Social and economic rights as declared by the Directive Principles of State Policy in article 37 states “DPSP shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country, and it shall be the duty of the state to apply these principles in making laws.” i.e, states have the flexibility to pass directives and orders for rights inclusive of children, with special attention and uplifting of street kids in the society. Although there has been a lot of contention between fundamental rights and DPSP’s they both maintain an equal relevance in the legal mandate.

86th constitutional amendment of the year 2002 guaranteed ‘right to education’ as a fundamental right in part iii, and the same also inserted ‘Article 21. This particular landmark modification made free and mandatory elementary education for the children between age groups of 6-14. Other definitive provisions specifically aimed at children are

Article 24 Right to protect by prohibiting any child from working in any hazardous employment like industries, factories and mines till the age of 14 years.

Article 45 The state shall endeavor to provide the right to free education, nourishment and care until a child complete the age of 6 years.

Article 39(e): that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength

Article 39(f) 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.

The judicial bodies have interpreted article 21 in different ways, one of which is that right to life means not merely an animal existence but a right to live a dignified life and a structural system to offer education at any cost, but the states fail to recognize their duties which results in the neglected life of street kids. Furthermore, Right to Free and Compulsory Education Act or Right to Education (RTE), 2009 was enacted by the parliament to improve the status of elementary education of children, but it didn't reach its goals due to mismanagement by the poor performance of states, for instance inability to tackle the worsening situation of school infrastructure.

The Immoral Trafficking (Prevention) Act, 1956 is a law for which the power is given under article 35 of the constitution to prevent prostitution of human beings. The Supreme Court reinstated it in a judgment and considered the article to rehabilitate and safeguard 'child' victims of prostitution. This has been said to keep the act in conformity with UN Protocols that defines 'trafficking in persons' and especially to punish the perpetrators in cases of women and children used for the purpose of forced slavery, and bonded labor which makes a roadside kid highly vulnerable as compared to others.

There is a gamut of state legislations to define the term 'street children' like according to, The Street Children (Protection of Rights) Bill, 2001 sought to define street children as "the deprived with unknown parentage, abandoned and neglected children, including destitute children of sex workers." The same word constitutes a varied meaning by UNICEF, which provides three operational categories of street children.

- First, children on the street “those children who have their families and homes and who return to their homes at the end of each day”
 - second, children of the street, “those children who have considered the street as their home and seek shelter, livelihood and companionship on the streets and have intermittent contacts with their families” and
 - last abandoned children, i.e. “those who have cut off all the ties with their families and are completely on their own. Special laws and legislations which strike a balance between a just society and the current alarming situations are:
- The Juvenile Justice Act, 2000
 - The Child Labor Prohibition Act, 1986
 - The Street Child (Protection of Rights) Bill, 2001
 - Charter for Children, 2001

The following laws have been formulated in India to ameliorate the civic life and tackle the problem of rapidly increasing street children across the nation.

Non-uniformity and lack of precision for the term ‘street kids’ is also one of the reasons why there is a lot of confusion and mishap in the collection of data, which negatively affects the distribution of resources among the targeted community, conducted by governmental authorities. A more current and scholarly definition in a cross-cultural context is provided by Aptekar and Stoecklin in 2014 where they have divided children in street situations into street children from the developing world and homeless youth from the developed world. International definitions (CRC) of the term differ from that of national statutes, researches, studies and legislations, as a consequence of which it becomes a challenge for the child to fall in the structural criteria.

ROLE OF NGO’S IN FIGHT FOR JUSTICE:

UN ‘Street Children’ says that any boy or girl for whom the street has become his or her habitual abode and/or source of livelihood and who are inadequately protected supervised or directed by responsible adults. It beckons towards a child who has made a dwelling wasteland his/her home, considering their only source of income and livelihood either by money obtained from begging or theft. To come into the

rescue of these campaigns by non-governmental organizations have reduced infant mortality, chronic malnutrition and child trafficking, and increased access to primary and secondary education.

‘Consortium for Street Children’ which came up with an idea to connect various networks and charities to co-operate and work as a single entity for the noble cause of liberty for street kids. With the support from UNICEF, it created history to become the first global agency to work for street children across 135 nations.

Child Labor Action Network (CLAN) works with an aim to create a peaceful society where all the children grow up as a responsible citizen of the country. It acts as a ginger group along with the government and UN while also train kids on child rights and mitigating children who are in conflict with the law.

While working from the front, National Human Rights Commission (NHRC), constituted in the year 1993 has committed itself to safeguard the rights of street kids in the country. One of the best examples to depict the action stance of NHRC is the judgment of M.C. Mehta vs. State of Tamil Nadu and Ors where the court dealt with the case of bonded labor where children were forced to work in dangerous factories and glass industries in demeaning circumstances which violated article 45 of the constitution, and also with the proper implementation of child labor protection (prohibition and regulation) act, 1986. It is due to Commission’s continued efforts that education has today become a Fundamental Right for the children between the age group of 6 and 14 years vide 86th Amendment of the Constitution.

Role of judiciary In perspective aspect :

With the introduction of the 7th five-year plan (1985-1990) which aimed to achieve the goal of ‘social justice’ with emphasis on development in all sectors. This also gave an opportunity to the apex court to uphold the constitutionally guaranteed rights of children. This was a substantial step in the legal world, carrying utmost importance with it.

Lakshmikant Pandey v UOI The landmark judgment laid down several procedural guidelines regarding systematic adoption of children to prevent child labor, slavery and forced prostitution. In response to court’s directives the central government

proposed to create Central Adoption Resource Agency (CARA), and supplementary legislations of Juvenile Justice (Care And Protection of Children) Act, 2000 (amended in 2006) and the Juvenile Justice (Care and Protection of Children) Rules, 2007.

Sheila Barse v UOI The court held that detention of destitute or delinquent children below the age of 16 should be stopped as per article 39(f) of constitution, and also (if) trials regarding trafficking should be held in juvenile courts rather than the general criminal court, with the application of uniform children act throughout the country.

Bachpan Bachao Andolan v UOI In this case, the Supreme Court stated about physical, mental and specifically sexual abuse against little children who faced child abuse while working at a circus. The court entertained the PIL under article 32 of the constitution, regarding the violation of fundamental rights of children.

Thus, it has been ensured that no one is left behind to foster their kids with potential resources just because of their circumstances and financial growth. New parliamentary regulations, laws and judicial intervention are engineered to attain affirmative action to lower the plight of street kids in India, and also to accomplish the global standards.

CONCLUSION:

The youth, which is of the principal value in a developing nation, should never be ignored by the central institutions. The concept of ‘streetism’ which showcases the penurious state of India is in the dire need of improvement and quick action. Right from the beginning, street kids are considered as an inferior subject and thus deprived of their basic fundamental and human rights.

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