



Child Rights in India

A Light on the Role of NHRC in Implementing Them

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Abstract—This paper is related with the provisions for child rights which entail the constitutional law and other programmes for the welfare of children in India. Besides this it focuses on the prevailing problems of children in India and role of National Human Rights Commission. The study appreciate the role and working of NHRC with providing some suggestions on specific areas. It recognizes the challenge is to translate political commitment to practice and suggest that the development with social justice cannot be achieved in the absence of respect for human rights. There has to be an enabling environment - legal political, economic and social - sensitive in the local context for realization of right to development. The gap between intention and action has undermined the credibility of several schemes. NHRC targets to be a facilitator to trigger this process for the realization of the right to development.

Keywords- child labour; five year plan; fundamental rights; human rights; NHRC; sex ratio;

I. INTRODUCTION

For full development as human beings, exercise and enjoyment of Human Rights by all the people is necessary. Human Rights and fundamental freedoms help us to develop our intrinsic qualities, intelligence, talents and conscience to meet our material and spiritual needs (Dr. Justice Shivaraj V. Patil, Acting Chairperson, NHRC). It is pointless to state that without the gratitude of the right to education, apprehension of the right to development of every human being and nation is not possible. The knowledge of the rights and freedoms, of oneself as much as of the others, is considered as a fundamental tool to guarantee the respect of all human rights for each and every person. In this scenario if we see child which seems to be more vulnerable, the state guarantee few rights for welfare. But still some prevailing problems in the society make us think for the loopholes or the back draws in the implementation of rights. Some institution in this regard play important role by coming forward as a support to the existing system. NHRC, National Human Rights Commission is one of them in the arena of implementing and assisting existing system. This paper highlights NHRC role and seek for some more hope in actualizing child rights.

II. DISCUSSION

A. Who is a Child

Generally a child is defined using age criterion. A 'child' as a social being can however not be defined merely through an age criterion. A universalistic way of defining childhood may lead to developing a monolithic concept of childhood, unrelated to social aspects. Childhood as "a social construct varies over time and space" was never an unacceptable view. But laws have their own strengths and limitations. A legal system, with State as an impartial institution, requires a neutral standard to classify all persons into child and adult in social system, will fail.

III. RIGHTS OF CHILD

A. UN Declaration of the Rights of the Child

- Non-discrimination.
- Special protection, opportunities and facilities to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
- The right to a name and nationality.
- The right to social security, adequate nutrition, housing, recreation and medical services.
- The differently-abled child to be given special treatment, education and care.
- The need for love and understanding so that the child grows in the care and responsibility of his/her parents, and in an atmosphere of affection and moral and material security.
- Entitlement to education, which should be free and compulsory, at least in the elementary stages.
- The child should be among the first to receive protection and relief in all circumstances.
- Protection against all forms of neglect, cruelty and exploitation, including that associated with employment.
- Protection from practices that may foster racial, religious and other forms of discrimination.



B. Major Constitutional Provisions and Rights for Child in India

Fundamental Rights

Article 14: ... shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15: ... shall not discriminate against any citizen... (3) Nothing in this article shall prevent the State from making special provision for women and children. (4) Nothing ... shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Article 17: "Untouchability" is abolished and its practice in any form is forbidden

Article 19: (1) All citizens shall have the right – (a) to freedom of speech and expression; ... (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India.

Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21 A: ... shall provide free and compulsory education to all children of the age of six to fourteen year

Article 23: Traffic in human beings and begar and other similar forms of forced labour are prohibited...

Article 24: No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Directive Principles of State Policy

Article 39: ... (e) ... the tender age of children are not abused... and not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood... protected against exploitation and against moral and material abandonment.

Article 45: ...provide early childhood care and education for all children until they complete the age of six years.

Article 46: ...shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes,...

Article 47: ...raising of the level of nutrition and the standard of living of its people and the improvement of public health...

Article 51: The State shall endeavour to – ... (c) foster respect for international law and treaty obligations ...

Article 51A: ... (k) ... parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Some highlights of Programmes for Children in India

Development programmes in the country, including those for children, are carried out within the framework of the Five-Year Plans. Some of these programmes are wholly funded by the Central Government, some by both Central and State Governments, and some entirely by the State Government, depending on whether the programmes are classified as Central, centrally sponsored or State sector schemes. In addition, a wide variety of programmes are also being implemented in collaboration with international organizations and non-governmental organizations, which are now growing as a vibrant sector in the development and empowerment of children.

The First Five-Year Plan (1951-56) Health, nutrition and education of children were identified as special areas of concern. The Government of India passed the Protection of Civil Rights Act, 1955 and ratified the International Labour Organization (ILO) Convention No. 5 of 1919 on minimum age of work in industry.

The Second Five-Year Plan (1956-61) aimed at stabilising the child welfare system. As such, the activities of CSWB were further strengthened. In 1956, the Suppression of Immoral Traffic in Women and Girls Act (SITA) was enacted in pursuance of Government of India's ratification of the United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others in the year 1950. Some of the other legislations enacted in the year 1956 were the Hindu Adoption and Maintenance Act, Hindu Minority and Guardianship Act, Women's and Children's Institutions (Licensing) Act and Young Persons (Harmful Publications) Act.

Third Five-Year Plan (1961-66) with increased emphasis on intersectoral coordination of services for children made an attempt for coordinating health, education and welfare services.. The recommendations of the Kothari Commission led to the formulation of the National Education Policy in 1968 which in a way gave fillip to the efforts being made in the education sector.

The Fourth Five-Year Plan (1969-74) focused on development of a package of basic minimum services for children. It also drew attention to the problems of neglected and destitute children and introduced a Scheme for Children in Need for Care and Protection. Right to health being a basic human right, the Fourth Plan

The Fifth Five-Year Plan (1974-79) saw a shift in focus from child welfare to child development wherein emphasis was laid on further integration and coordination of services, increased allocations and introduction of new schemes for children. The adoption of National Policy for Children led to the constitution of the National Children's Board in December, 1974 under the president-ship of the Prime Minister for



planning, reviewing and coordination of services and programmes to meet the needs of children.

The Sixth Five-Year Plan (1980-85) reiterated the approach and strategy adopted for children during the Fifth Plan and further promoted integration and strengthening of child welfare and development programmes started earlier. The problem of working children and their welfare simultaneously received attention of the planners for the first time during the Sixth Five-Year Plan and appropriate programmes were undertaken to improve the health, nutrition and educational status of working children.

The Seventh Five-Year Plan (1985-90) led to spatial expansion and enrichment of child development services. In order to give focussed attention and direction to child development, a separate Department of Women and Child Development was set-up for the first time in the Ministry of Human Resource Development in September 1985. Its status was elevated to that of an independent Ministry of Women and Child Development in 2006 and issues concerning children that were earlier being dealt by the Ministry of Social Justice and Empowerment have now been transferred to it.

The focus in the Eighth Five-Year Plan (1992-97) was on human development through advocacy, mobilisation and community empowerment and it accorded high priority to survival and development of children. The Eighth Plan specifically recognised the 'Girl Child' as an important target group, demanding attention of the Government for her development and to fight against the prevailing gender discrimination.

In the Ninth Five-Year Plan (1997-2002), efforts were made to expedite effective implementation and achievement of the goals set in the two Plans of Action besides instituting a National Charter for Children to ensure that no child remains illiterate, hungry or lacks medical care.

In Tenth Five-Year Plan (2002 – 2007), overall emphasis has been on a rights-based approach with regard to 'survival, development and protection' of children. Accordingly, focussed attention is being given to arrest the problem of declining sex ratio including its offshoots – female foeticide and female infanticide. Special efforts are being made to ensure effective enforcement of related legislations to prevent and eradicate the problem of female foeticide and female infanticide.

In Eleventh and ongoing twelfth Five-Year(2007-2012 & 2012-2017) too worked on the same lines.

With regard to education, the Constitution (86th Amendment) Act was notified in December 2002, making free and compulsory education a Fundamental Right for all children in the age group of 6-14 years. The fact that Article 21A was added to the Constitution for recognising right to primary education implies that right to personal liberty guaranteed by Article 21 is now also the basis for a general right to education. Correspondingly, Article 45 of the Constitution has been substituted so as to provide for early childhood care and education for all children till they complete the age of 6 years.

Article 51A was further modified by adding a clause – (k) – stating that it is the duty of the parents/ guardians to provide opportunities for education to their children/ward between the age of six and fourteen years. Ever since education became a Fundamental Right, the Tenth Plan adopted a new approach towards achieving the goal of Universalisation of Elementary Education (UEE).

Supreme Court and child right

From the Seventh Five-Year Plan onwards, the judiciary and the Supreme Court too have played an active role in upholding the rights of the child. The Supreme Court of India has developed the concept of jurisdiction under which any individual can approach the Court with regard to the violation of a fundamental right. The Supreme Court has also modified traditional concepts by allowing groups of persons or organizations to intervene in cases relating to violations of fundamental rights even though they may not have been affected personally in the matter. This concept of 'social action litigation' in India represents an effort to use the legal system to ensure action to realize constitutionally guaranteed rights. Some of the most important examples of social action litigation for children are the following cases, each of which has been a landmark in the process of ensuring children's rights:

a) Laxmikant Pandey vs. Union of India [AIR (1984) SC 469, AIR (1986) SC 276, AIR (1987) SC 232] on Adoption of Children.

b) Shiela Barse vs. Union of India [AIR (1986) SC 1883, AIR (1988) SC 2211] on Trafficking of Children.

(c) M.C. Mehta vs. State of Tamil Nadu [JT 1990 SC 263] on Problem of Child Labour.

(d) Vishal Jeet vs. Union of India [1990 (3) SCC 318] on Problem of Child Prostitution.

(e) Unni Krishnan vs. State of Andhra Pradesh [1993 (1) SC 645] on Education of Children.

(f) Gaurav Jain vs. Union of India [1997 (8) SCC 114] on Problems of Prostitution and Children forced into Prostitution.

(g) Gita Hariharan vs. Reserve Bank of India [(1999) 2 SC 228] on Guardianship.

(h) Centre for Enquiry into Health and Allied Themes (CEHAT) & Others vs.

Union of India & Others [2000 SC 301].

In accomplishing the milestones, both at the national and international level, the non-governmental and civil society organizations have played an equally important role along with the Government in virtually every aspect concerning children. The media too has played a critical role in shaping public opinion and creating mass awareness. The Government of India and UNICEF collaborative initiatives over the years have focused on enhancing the capacities of the electronic and print media personnel in the Ministry of Information and Broadcasting so as to integrate and represent issues concerning children and their rights effectively. As a result, the media is



gradually focusing on children's issues in a qualitative way. This is certainly a positive sign for the future and it is hoped that the media will increase its responsibility to include monitoring of child rights violations in a significant and persistent manner.

IV. STILL PREVAILING PROBLEMS

A. Vulnerability of Child Population

From 548 million persons in 1971, the population of India crossed the billion mark officially on 11 May 2000. The 2001 Census gives the total population for the country as 1,028.7 million persons. This population is expected to reach 1,264 million in 2016 which means that approximately 236 million persons are likely to be added to India's population in the current and ensuing decades. Such a massive increase in numbers will, to a large extent, offset the gains of economic development and require massive inputs for social services, civic amenities and infrastructure development. The population of States constituting the Indian Union varies considerably in size. Uttar Pradesh, the biggest State has retained its position with a population of 166 million in 2001 even after a separate State (Uttaranchal) was carved out of it in 2000. Some 18 States (Uttar Pradesh, Maharashtra, Bihar, West Bengal, Andhra Pradesh, Tamil Nadu, Madhya Pradesh, Rajasthan, Karnataka, Gujarat, Orissa, Kerala, Assam, Punjab, Haryana, Jharkhand, Chhattisgarh and Jammu & Kashmir), as per Census 2001, had a population of more than 10 million, while two States (Himachal Pradesh and Uttaranchal) had a population of more than 5 million but less than 10 million.

All this indicates how critically important it is to improve the child development profile in these States if the national aggregate of child development indicators is to show a significant improvement. Currently, several States are lagging behind on social as well as economic development indicators. This situation needs to be looked into and tackled in a very concerted manner.

B. Adverse Child Sex Ratio

The child sex ratio is calculated as number of girls per 1,000 boys in the 0-6 years age group. In India, the 2001 Census reported a child sex ratio of 927 girls per 1,000 boys, which is definitely adverse to girls. The 1991 Census had reported child sex ratio of 945 girls per 1,000 boys, which signifies that a decade later, the child sex ratio has worsened further by 18 points. Prior to the 1991 Census, this ratio had fallen from 976 in 1961, to 964 in 1971, and 962 in 1981. A stage may soon come when it would become extremely difficult, if not impossible, to make up for the missing girls. The declining child sex ratio has already started showing its ramifications in States like Punjab, Haryana, Gujarat, Delhi, Rajasthan, Maharashtra, Tamil Nadu and Himachal Pradesh. In States like Punjab, Haryana and Gujarat, this ratio has declined to less than 800 girls per 1,000 boys. The Government needs to recognize this discrimination. Girls have a right to live just as boys do. Moreover, missing numbers of each sex and the

resulting imbalance, is bound to destroy the social and human fabric.

C. Impact of Poverty on Children

Poverty exercises an adverse influence on the health and nutrition status of children. Inadequate and irregular earnings affect the quantity and quality of food that a family can consume throughout the year, its standard of living, and access and use of healthcare. The extent of poverty varies considerably between States. Removal of poverty is one of the central concerns of Indian planners and its reduction a key indicator of success in implementation of policies and programmes, including those relating to children.

D. Need for a Uniform definition of Child

As mentioned earlier, the Constitution of India and the laws enacted over the years have some unique and far-reaching provisions to protect children. Yet, there are laws in which the age of the child is not in consonance with the CRC, which the Government ratified way back in 1992. Besides, the age of the child has been defined differently in different laws. These different age-specifics under different laws not only create a dilemma, but also set the stage for injustice. This is because, whether the same human being is or is not a child depends upon the law that is being invoked in a given case. Moreover, when the laws are in conflict with one another due to diverse definitions, it is but natural a difficult task to decide the 'best interests of the child'. It is thus necessary that the definition of the term 'child' be brought in conformity with the CRC, viz. "below 18 years of age", by establishing one standard 'age of majority'.

E. Need for Modifications in Other Constitutional and Legislative Provisions Related to Children Education

The 86th Amendment to the Constitution, on the Fundamental Right to Education for the 6 to 14 years age group, has also led to the inclusion of an additional clause under article 51A that imposes a fundamental duty upon parents or guardians to provide opportunities for education of their children/wards between the ages of 6 and 14 years. The amendment has provoked agitation and criticism from all sections across the country. Their contention is that the State is abdicating its responsibility for the provision of free and compulsory quality education that must be accessible and appropriate, both socially as well as physically. In effect, it is penalising the poor parents twice – for being poor and for their inability to send their children to schools, the causes for which may be beyond their control. Lack of quality, appropriate and accessible education is one of the major reasons for children dropping-out of school. The other reasons, of course, are poverty and to some extent the need for elder children to look after their younger siblings. In the absence of a well-drawn plan to ameliorate poverty and lack of alternative childcare facilities for children who have been deliberately kept out in the amendment, the Government needs to rethink and reconsider its stand.



F. Child Marriage

There is legal recognition of the fact that children must not be married before they are physically and mentally ready for it. The Child Marriage Restraint Act, 1929 (CMRA) prescribes a minimum age of 21 years for males and 18 years for females. As the title of the Act suggests, it is merely a law to prevent the solemnization of child marriages, but does not address the situation of a child who has been married off before the law could prevent it. It does little to protect children who have been married off, sometimes even before they can stand on their feet. Efforts to amend the CMRA have been going on for almost four years, yet there is no consensus on the issues on which amendments are required.

G. Child Labour

The Child Labour (Prohibition and Regulation) Act was enacted in 1986, to specifically address the situation of child labour. However, this law is inadequate both in its understanding and the framework that it provides for dealing with the problem of child labour. By distinguishing between hazardous and nonhazardous forms of labour, and identifying certain processes and occupations from which children are prohibited from working, it leaves out a large range of activities that children are engaged in and thus continue to be exploited and abused. The large-scale exploitation and abuse of children employed in domestic work and hotels are cases in point. On August 1, 2006, the Ministry of Labour added the following occupations to the list of hazardous occupations: domestic servants, workers in dhabas, restaurants, hotels, motels, tea shops, resorts, spas or other recreational centres. The notification for this came into effect on 10 October 2006. This is a welcome step but far from adequate. Bonded child labour and other extremely exploitative forms of child labour including slavery, prostitution, drug trafficking, etc. are other grey areas which require priority attention. The ILO Convention No. 182 on the Worst Forms of Child Labour, which is currently being examined by the Government of India from the point of view of its ratification, also seeks the immediate elimination of these types of child labour.

H. Coercive State Population Policies and Their Impact on Children

The coercive laws based on the State Population Policies are also having a negative impact on children. Since adults will now not be able to stand for elections in some of the States if they have more than two children, some are choosing to give away their 'excess' children in adoption or disown them. The withdrawal of facilities after the second child is bound to have an impact on the status and value that the girl child in the family will have. It is a recipe for gender discrimination and continuation of female foeticide.

I. Discrimination Against Children

The Government has adopted a policy of affirmative action towards addressing issues of socially backward groups, such as the Scheduled Castes/Tribes and the Other Backward Classes as well as the girl child. Despite these, discrimination – overt

and covert – occurs in various forms. The guiding principles underpinning the Constitution of India are equality before law, equal protection to all and non-discrimination. There is affinity between the standards set by the Constitution and the standards set by Article 2 of the CRC. Equality is a dynamic concept with many aspects and dimensions and therefore cannot be confined within traditional limits. Articles 14, 15, 17, 25-28, 29 and 30 of the Constitution aim to secure social and economic justice to all as well as remove all kinds of biases. Yet, children born in the categories of Scheduled Castes/Tribes and Backward Classes including religious minorities start life with severe handicaps. Considering that these children account for a clear majority of India's child population, it is necessary to look deeply into their problems from all angles rather than paying a lip-sympathy to them.

J. Other Policy Measures Requiring Attention

Adoption of a New National Policy for Children India adopted a National Policy for Children in 1974, declaring children to be the nation's most precious asset. From 1974 till date, there has been a gradual shift in approach towards its children from a needs-based to a rights based approach. However, India has yet to translate this change into actual programming, which remains largely 'welfare' oriented. The fact that India is signatory to a plethora of international/regional instruments concerning children, this needs to be reflected in its National Policy for Children too. And, this could be carried out only if the 1974 National Policy for Children is revised.

K. Child Centred Planning

It has also been found that so far as children are concerned, they have been devoid of holistic child-centred planning that requires inter-departmental and inter-ministerial coordination. As a consequence of this, policies and actions concerning them have not brought out the desired result. The Ministry of Women and Child Development is the Nodal Ministry responsible for all matters concerning children. With the objective of strengthening central level coordination, a National Coordinating Mechanism (NCM) was constituted way back in January 2000 through an executive order issued by the Ministry of Women and Child Development. However, the task of this NCM is perhaps restricted to monitoring the implementation of the CRC only. It is not known whether the NCM is still in operation after it met for the first time in September 2000.

L. Review of Other Policies Impacting on Children

Correspondingly, it is important to undertake an examination of all those policies which at the outset may seem distantly remote but overall have an impact on the status of children. For example, the agricultural policy or for that matter the forest policy or the environmental policies. There is thus need to objectively gauge the impact of such policies on children. There is ample evidence that there is increase in malnutrition level among children due to change over from food crops to cash crops as a result of the agriculture policies or the loss of access to traditional sources of food and nutrients



and livelihood of adults due to the loss of access to forests because of the forest policy.

M. *Struggle for Child Survival*

Right to health is a basic human right that cascades from the right to life. The Constitution of India under Article 21 makes right to life a Fundamental Right. Health being a key factor in a nation's growth and development, it has been a subject of national attention, public debate and Government intervention for several decades. A number of national programmes have been launched in the past to control and eradicate the major diseases. While there has been success in some areas, in general, public health services have been characterized by poor performance. The burden of disease has fallen disproportionately heavily on the poor, the worst affected being children. Frequent episodes have not only caused pain and suffering to children, but also affected their growth and development and influenced performance in school. Here, it is important to remember that child survival is not synonymous with child health, and that morbidity data are also very important. Unfortunately, the collection of morbidity data is not done systematically, particularly community based data. Also, due to the absence of standardization in the presentation of data, making a comparison of findings of different studies over time or across regions is often rendered difficult

The most widely used indicator of child survival is infant mortality rate (IMR), which measures the number of infant deaths per 1,000 live births during the year. In India, as per the latest Census, the IMR is still very high. Infant deaths (deaths below age of one year) are indicative of wastage of human life. Malnutrition has been another major public health problem in the country. It has somehow escaped public visibility despite its harmful potential. In India, about half the children less than three years of age were found by the National Family Health Survey 1998-9 to be undernourished. The worst affected are the children of the rural and urban poor. Today, the prevalence of severe under-nourishment has declined, but this should not lead to any complacency. Malnutrition is often categorized as only a medical problem, but it is the outcome of several factors – socio-cultural as well as economic factors, and has important behavioral dimensions and, therefore needs to be tackled cautiously through coordinated inter-sectoral intervention strategies that are properly executed.

N. *Children in Especially Difficult Circumstances*

In our country today, there are a large number of children who are living in especially difficult circumstances and require attention of all stakeholders. Unfortunately, not much is known either of the nature of the problems faced by these children or of the numbers involved. It was only as an aftermath of the 1990 World Summit for Children and the World Declaration on the Survival, Protection and Development of Children to which India is a signatory, the Government of India through its National Plan of Action, for the first time, not only made a direct reference about this group of children but simultaneously devoted an exclusive section on them.

O. *Role of National Human Rights Commission in Protecting and Promoting Children's Rights*

The 'rights of children', is one area on which the National Human Rights Commission (NHRC) has tried to focus continuously ever since it was constituted in October 1993. It observed from the very beginning that despite there being major provisions in the Constitution of India for survival, development and protection of children as well as laws to safeguard their interests including the fact that the Government of India had ratified the CRC, children all over the country, especially those belonging to weaker sections of the society, were found to be vulnerable and their dignity and human rights were often trampled. Though, the initial few months of the Commission were spent on making an overall assessment about the range of issues that affected children, but once this task was completed, the Commission concentrated its attention on preventing and eradicating the problems of child labour, child marriage, child trafficking and prostitution, child sexual violence, female foeticide and infanticide, child rape, HIV/AIDS in children and the problem of juveniles.

P. *Child Labour*

The Commission, first and foremost, concentrated on ending the problem of child labour, especially those employed in hazardous industries. In order to provide suitable remedies to the problem of child labour, it made a special effort to study the plight of these children employed in the glass work and carpet making industries of Uttar Pradesh, the beedi, match-sticks and fireworks industries in Tamil Nadu and the slate-pencil making industry in Madhya Pradesh. It particularly paid attention on the glass work industry in the district of Ferozabad, Uttar Pradesh, where some 50,000 children were reported to be working. For this, it evolved an integrated programme, involving the coordinated efforts of a number of Central Ministries, the Government of Uttar Pradesh, non-governmental organisations and other stakeholders. This programme was based on three inter-related concepts: income-support for the families from where children went to work in the glass work industry; schooling, including the creation of new facilities, for children weaned away from employment; and rigorous implementation of the Child Labour (Prohibition and Regulation) Act 1986, under which there have been conspicuously few prosecutions and lamentably fewer convictions. Simultaneously, the Commission consistently took a supplementary and, in a sense, a different approach to that of the Government.

This approach laid emphasis on the provision of free and compulsory education for children upto the age of 14 years, and the allocation of an appropriate level of resources to achieve this objective. In taking this stand, the then Department of Education deliberated on this matter carefully and instead of an all-India legislation on free and compulsory education, it chose to adopt a different strategy to achieve the goal of the "universalization of elementary education".



Later, taking a cue from the landmark judgement delivered by the Supreme Court on 10 December 1996, in writ petition (civil) no. 465/1986 M.C. Mehta vs. State of Tamil Nadu and Ors., the Commission ensured that the directions given in the judgement were implemented. In this task, the Chairperson, Members and Special Rapporteurs of the Commission have toured rigorously to monitor States where child labour is prevalent. These States are Bihar, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan and Uttar Pradesh. 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. To end the scourge of child labour from the country, the Commission's efforts have also been directed towards generating greater awareness and sensitivity in the District Administration and Labour Departments of concerned States. In order to create awareness among the masses, it has come out with a 'Know Your Rights' series, in which one of the booklets deals with the issue of child labour exclusively.

Q. Children as Domestic Help

In 1996-97, the Commission received disturbing reports of the employment of children below the age of 14 years as domestic servants in the homes of government officials. Unacceptable as the practice is in any circumstance, the Commission felt that the employment of such children as domestic help in the homes of government officials was particularly reprehensible. Following a meeting in January 1996, the Commission decided to recommend that an appropriate rule be included in the conduct rules of government servants, both at the Central and State levels, which while prohibiting such employment would also make it a misconduct inviting a major penalty. The Commission accordingly requested the Minister of State in the Ministry of Personnel, Public Grievances and Pensions to take appropriate steps to introduce the rule into the Government Service (Conduct) Rules 1964, and proposed the precise wording required for this purpose. This view of the Commission effected necessary amendments to Conduct Rules of the Central and State Government servants. By virtue of these amendments, employment of children below 14 years by the government servants as domestic help now attracts disciplinary action.

R. Problem of Child Marriage

The widespread persistence of child marriage in certain parts of the country coaxed the Commission to examine this problem in its enormity. On examination of the problem, the Commission realised that the Child Marriage Restraint Act, 1929 (CMRA) should be recast so as to provide for higher penalty for the violations of the provisions of this Act and also to make the offence cognizable and non-bailable. In pursuance of NHRC recommendations, the Government of India introduced "The Prevention of Child Marriage Bill" in the Rajya Sabha on 20 December 2004 incorporating all the recommendations of the Commission. Later, the Bill was tabled in the Lok Sabha on 29 November 2005. The Bill was sent for examination of the Department Related Parliamentary

Standing Committee on Personnel, Public Grievances, Law and Justice.

S. Trafficking in Children

Alerted by press reports to the alarming increase in child trafficking and its ramifications like commercial sexual exploitation, pornography, etc. in Tamil Nadu and Goa in the year 1995-96, the Commission issued notices to the two State Governments as well as to the Ministry of Women and Child Development, Government of India, calling for reports on the situation. Simultaneously, it also decided to have this issue considered on a regular basis by a Core Group, consisting of representatives from the National Commission for Women. The main objective of the Action Research was to find out the trends and dimensions of trafficking, role of different law enforcement agencies in preventing and combating trafficking, process of rescue/recovery, rehabilitation and reintegration and the role of other national institutions and the civil society in preventing and combating trafficking. The Action Research also examined the relationship between missing persons vs. trafficking, migration and trafficking, tourism and trafficking and culturally sanctioned practices and trafficking.

Research by NHRC has also been continuously sensitizing the judicial officers, police officers, administrative officers, functionaries of Homes, NGO representatives and the civil society at large. A network of Nodal Officers, two in each State – one from the police department and the other from the social welfare/women and child development department, has been created to effectively deal with the problem of trafficking.

T. Sexual Violence Against Children

Sexual violence against children is another sensitive issue in which the Commission in partnership with Prasar Bharati and UNICEF held four workshops for radio and television producers to prepare a guidebook to sensitize people. The Commission currently is also in the process of preparing guidelines for speedy disposal of child rape cases.

U. Female Foeticide and Infanticide

Faced with the widely prevalent misuse of sex determination tests to commit female foeticide, the Commission approached the Medical Council of India during the year 1995-96, to take a position on the ethical aspects of such tests. After reviewing the matter, the Council decided to suggest suitable amendments to the regulations governing the code of medical ethics, in order to enable undertaking of disciplinary proceedings against errant doctors. In the light of recommendations made by the CRC Committee in its concluding observations. To counter this problem, the Commission has maintained that vigorous and comprehensive measures be taken by all States and Union Territories to put an end to the gruesome problem of female foeticide and infanticide.



V. Right to Health

The violation of the rights of children has been considered in the Commission from the angle of health too. In 2000 and 2001, the Commission organised a Workshop on Human Rights and HIV/AIDS that was followed by a Consultation on Public Health and Human Rights. In particular, the Commission asked them to enact and enforce a legislation to prevent children living with HIV/AIDS from being discriminated against, including being barred from school.

W. Juvenile Justice

The Commission has been concerned about the plight of juveniles who come in conflict with law and those who are in need of care and protection in the country. It has also undertaken a research study on the subject along with a non-governmental organisation. The study on completion will suggest measures for better implementation of the Act.

V. HANDLING OF COMPLAINTS RELATED TO CHILDREN

The Commission since its inception has been handling complaints of different kinds related to children. Majority of the complaints handled by the Commission so far have been on the issue of child labour, child marriage, juvenile justice, child trafficking, child rape, missing children, exploitation of children of varied kinds, deaths in juvenile/observation homes, etc. The Commission till 31 October 2015 had registered 3,885 cases of children. Out of these, 512 cases pertained to child labour, 204 cases were related to child marriage, 31 cases were of children who were being misused for commercial sexual exploitation, 385 cases were related to different kinds of exploitation and 61 cases pertained to trafficking in children. The other cases registered were related to disappearance, deaths in juvenile/observation homes, sexual harassment/abuse, rape, etc.

It is the intention of the Commission to continue monitoring all situations where children's rights are being affected. There is an increasing convergence of positions amongst various sections - the State,

Human Rights Institutions and civil society – that development is one of the necessary requisites for promotion and protection of human rights and right to Development. Two challenges need to be met before this right can be taken seriously in policy and action. The first is to create a robust concept of development; the second is to identify the practical steps to implement this right by gearing up the administration and the operation of law. The object of this right is to reduce disparities, harmonize aspirations of freedom and dignity with material improvement of human conditions. Neither objective is possible under conditions of poverty. Poverty often results from willful neglect and discrimination. Lack of adequate development or that which permits exclusion and discrimination in allocation of resources paves the way to increased inequality and marginalization of the poor and the vulnerable. It denies them their human rights in terms of lack of

capacity. In the words of Nobel laureate, Amartya Sen, “the overarching objective of development is to maximize people’s capabilities– their freedom to lead the kind of lives they value, and have reason to value.” Economic and social inequalities create differences in access to political power, justice, basic goods and services, all of which are essential for the full realization of human rights. The process of development must strive to realize all human rights entitlements of all rights holders. This is particularly relevant for the poor and the marginalized. For them, it is necessary that the development process move away from needs based exercise in charity and assistance to one that creates and sustains genuine entitlements that span all aspects of their life - economic, social and cultural as well as civil and political.

The second challenge is to translate political commitment to practice. Development with social justice cannot be achieved in the absence of respect for human rights. There has to be an enabling environment - legal political, economic and social - sensitive in the local context for realization of right to development. The gap between intention and action has undermined the credibility of several schemes. NHRC targets to be a facilitator to trigger this process for the realization of the right to development.

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