Legal Challenges to Combat Problems of Child Rag Pickers In India: An Analysis

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Abstract

Rag picking by children is one of the major humiliating, exploitative as well as vulnerable forms of child labour worldwide. Poverty, unemployment, illiteracy, unequal distribution of wealth as well as poor health is the challenging areas in urban. These challenges compel a child to work instead of going to school. This is the most dishonourable economic activity which compels the children to work in a hazardous atmosphere and exposes them to physical, psychological and sexual abuse. In fact child rag pickers face more occupational challenges than adult rag pickers due to their tender age and lack of work experience.

Indian Constitution ensures the rights and protection of children through its various articles. Provisions in the parts of Preamble, Fundamental Rights and Directive Principles of State Policies clearly prohibit children's working in hazardous occupations. Besides there are wide range of domestic laws for the protection of children. Child Labour (Prohibition & Regulation) Amendment Act 2016, the Commission for Protection of Child Right Act 2005, the Juvenile Justice (Care & Protection) of Children Act of 2000, the Right of Children and Compulsory education Act of 2009 and many more have been enacted to protect and promote the rights of the child.

The Government of India has adopted different policies like Policy on Child Labour 1987, National Health Policy 2002, National early childhood Care and Education (ECCE) Policy, 2013 etc. to protect the children and promoting their welfare individually and collectively. Judiciary in India has also made continuous efforts to safeguard and improve the conditions of child labour. Despite such provisions the problem of child rag pickers is acute in present society. Hence strict enforcement of law, Specific plan of action for child rag pickers, sensitized judiciary, trained officials as well as awareness among people collectively tackle to eradicate the problem of rag picking among children.

Key Words: Rag Pickers, Constitution, Enactment, Abuse, Protection, Prohibition

Introduction

Children need good care and guidance for their healthiness and all-round development. They should be provided justifiable attention in healthcare and education. Despite international declaration and state's concern, majority children face difficulty due to persistence of poverty, social belief, illiteracy and gender discrimination worldwide. Millions of children are working in garbage dumps, street in urban areas as rag pickers. Most of the child rag pickers live in hazardous condition. Most of them are found to have poor health like acute tuberculosis, skin diseases, diarrhoea, stress, respiratory problems, anaemia, worms, intestinal diseases and physical injuries like cuts, starches, burns etc.

Child rag pickers are found to be low school enrolment as well as high dropout level. Past studies reveals that child rag pickers have the poorest health condition due to the consumption of unhygienic food and working in most unhealthy, hazardous environment. Child work has been considered as potential learning experience for the child. But rag picking by child a worst form of child labour is not acceptable as if it is detrimental to the child's growing process, depriving the child's right to survival, protection, security and development.

Child rag pickers pick scraps or waste materials from the city dumps, road sides, drain sides and garbage bin. Hanging a plastic sack on his shoulders, they have to walk kilometres on bare foot, pick garbage without gloves and other safety measures. They have to collect and separate waste materials like bottles, electric bulbs, card board, iron, tin cans and polythene bags and plastic items etc. Hence the condition of working environment of child rag pickers is hazardous and unhygienic.

Statement of the Problem

Inequalities among different groups in society mainly lead to poverty which in turns forces parents to send their wards to become a part of rag picking workforce. In addition to this lack of proper guidance, counselling and care of parents also have contributed to rag picking. Those children are badly suffering from malnutrition. They live in streets and they are compelled to spend very miserable life. The population of such children is increasing day by day with vacuum future. They have not got proper care, protection and guidance from the concerned authorities. Ineffective enforcement of child labour law have also contributed a lot for increasing number of child rag pickers. Engagement of children in rag picking is the violation of civil and political rights and also violation of economic, social and cultural rights. Because of serious violation of these basic human rights there is an urgent need to take effective steps to eradicate rag picking among children.

Literature Review

Singh (1996) in his book 'The Child Rag Pickers: Social Economic Perspective and intervention Strategies' focus on all types of problems of child rag pickers in slum areas. Various chapters in this book reveal different aspect of rag picking among children, the extent of child labour, emergence, causes and welfare of child rag pickers, problems of street children and child rag pickers in India.

These chapters also reveal the push factors for children to adopt rag picking for earning, working and different problems faced in workplace.

Suresh (2011) in his research article 'An Empirical Study of Child Rag Pickers in Warangal City, Andhra Pradesh' speaks that no proper estimation of child labour in India. Many social scientist, researchers and non-governmental organisation have provided their own estimation adopting different characteristics and methodology of child labour. According to the author, majority of child rag pickers are suffering from different diseases. They have also bad habits like tobacco-chewing. Poverty, migration, illiteracy, overcrowded family and indebtedness of their family are the root cause for these children to adopt rag picking activities.

Kshitij in 'A Project For the Child Rag Pickers of Bhandewari Dumping Ground, Nagpur' reveals the working condition of child rag pickers is so unhygienic, risky and full of threats from stray animals. They have to work for more than 10 hours by walking up to 10-12 kilometres. Some basic rights of children like right to food, right to shelter, right to drinking water are denied to children at working place.

Chatterjee (2015) in 'Child rag pickers in India and violation of their human rights' explains that poverty and illiteracy are the most common reasons behind any kind of violation of human rights of children after citing M.C. Mehta vs. State of Tamil Nadu, confirm the Supreme court decision that in India the children working in Hazardous occupations should be shift from such working condition and then they should be rehabilitated.

Goyal (2005) in the work 'Street Children and the child Labour' shows the living style of street children who work as beggar, rag pickers or shoe polish boys. Most of them are completely alone and depend on the employers. They have to sleep at bus station, railway stations, steps of shopping malls etc. These children have no permanent residing place due to their nomadic nature. They are at the mercy of locals, police and urban predators.

Khan (2009) in the article 'The Young Rag Pickers in Bangladesh' totally based on the lifestyle of young rag pickers. The work reveals how young rag pickers collect waste of recyclable things in garbage dump yard. The young with children collect all the recyclable wastes like plastics, glass bottles, tin can, card board, paper etc. and sell them at fluctuate price.

Soni and Mahapatra (2011) in their book entitled 'Girl Rag Pickers: Struggle for Survival' reveals the situation of rag pickers girls. The authors here reveal various impact of rag picking on the girls. These girls face lots of problems at workplace. The whole study reflects an overview of their life style. The life of the girl rag pickers is more difficult. They are more vulnerable to exploitation and abuse at working environment. They used as major income source for the families. It was imperative to treat them as a separate category to understand their problems.

Methodology

The study is both doctrinal and empirical. This study identifies and analysis the violation of child rag pickers' basic human rights. The study also discuss legal challenges to combat problems relating to child rag pickers. The primary data is collected with the help of structural questionnaire along with interview method. The primary data is collected from 100 child rag picker respondents and 100 parents of child rag pickers of slum areas in Sambalpur districts. The secondary data is collected from books, news papers, journals, magazines, articles, published documents etc. The sapling size was 100 child rag pickers between 4-14 years.

Objectives

The hazardous employment includes rag picking by children because in this activities, tender aged children are subjected to major infections while come in contact with chemicals, poisonous substances and other sharp objects. Bio- medical wastes like syringes, expired medicine, needles, chemical bottles, rotten bandages etc. are very infectious. Hence they are very prone to diseases like Hepatitis A and B, skin disease, tuberculosis, cancer etc. due to massive exposure to those hazardous materials. Indian Judiciary has also given several directions to protect the rights of children including child rag pickers from various types of exploitation. Despite this rate of child rag pickers increase day by day. Hence objective of the study is -

- 1. How Basic rights of child are violated when they engage in rag picking activities?
- **2**. Are the present day plans, policies, programmes and schemes, adequate to provide better facilities to child rag pickers?
- **3**. Is implementation machinery under existing child labour protection legislation is succeeded to tackle the problem of rag picking among children?

Constitutional Framework in India

The Constitution of India has granted various rights as fundamental rights to the citizen of India. Many articles address for different needs as well as protection of children. These articles are divided into two categories, Fundamental Rights and Directive Principles of State Policy. Fundamental rights are justifiable in a court of law and the courts in India are also bound to declare a law as invalid if it violates a fundamental rights . Important article for declaration of fundamental rights of children are-

Article 14 'Equality before law and equal protection of law' is available to every person in India including children.

Article 15(3) of the Constitution empowers the state to legislate special legislation for the protection of children. No grounds are mentioned hence preferential treatment is allowed on consideration of the inherent weakness of these children.

Article 21, which includes right to livelihood, right to shelter, right to live with human dignity, right to health and medical assistance as well as right to education, right against inhuman treatment etc. Children below 18 years need more than just human rights due to their vulnerability.

Article 21-A speaks for free and compulsory education for all children of age 6 to 14 years.

Article 23 speaks 'Traffic in human beings and beggary and other forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Child rights go beyond the human rights. In India, the Supreme law of the land i,e the Constitution provides, Article 24 is the provision specifically for child labour including rag picking that speaks '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 Principle of State Policy (DPSP) under Indian Constitution includes such provisions which are positive suggestion for state. These principles are not justifiable in a court of law. Like fundamental rights, directive principles provide certain rights under the Constitution for welfare of the child. Some important provisions of DPSP are –

Article 39 (e) requires the state to direct its policy towards securing the health and strength of workers and tender aged children are not to be exploited and those children are not involved by economic necessity to enter activities unsuited to their age and strength.

Article 39 (f) requires the state to direct its policy towards securing that children are given opportunity and facility to develop in a healthy manner and in conditions of freedom and dignity so that children and youth are protected against exploitation and against moral and material abandonment.

Article 41 speaks that the state shall within the limits of its economic capacity and development make effective provision for securing inter-alia, the right to education and public assistance in cases of unemployment.

Article 42 provides that state to make provisions for securing just and human conditions of work besides maternity benefit. It envisages a healthy psychological environment for normal upbringing of a child.

Article 45 provides state to endeavour to provide early childhood care and education for all children up to 6 years of age.

Legislative Safeguards in India

In India, besides the Constitutional safeguards there are wide range of enactments have been made by the legislator, to protect and promote the rights of the child. Under these laws, the children are entitled to special care, protection and adequate assistance. The important laws are –

- 1. Orphanages and Other Charitable Homes (Supervision and Control) Act 1960. This Act basically provides for the supervision and the control of orphanages and homes for children.
- 2. Child Labour (Prohibition and Regulation) Act, 1986. This enactment prohibits the engagement of children in certain employment and regulates the conditions of work of children in certain other employment.
- 3. Person With Disabilities (Equal Opportunities, Protection of Rights and Full Participations) Act, 1995. This Act ensures the possibilities of the Central and the State Governments with regard to services for disabled persons. The Act also speak about education of disabled children up to 18 years in an appropriate environment.

4. Commission for Protection of Child Right Act, 2005. This Act provides the Constitution of a National Commission and State Commission for the protection of child rights and also for setting up children's courts for providing speedy trial of offences against children of violation of child rights.

5. Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. This Act deals with the law and children in need of care and protection. This Act contains provision for proper care, protection and treatment by catering their developmental needs by adopting child friendly approach in the adjudication and disposition of matters. This should be done in the best interest of the children, for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

Apart from various Constitutional provision relating to the protection of child rights and prohibiting the employment of child and various legislations like the Child Labour (Prohibition And Regulation) Act, 1986 there are numbers of schemes, national policies and Programmes for children. India has implemented a number of child centric policies addressing the issues of child survival, child development and child protection. The important among them are-

- National Policy For Children 1974,
- National Policy on Education 1986,
- National Policy on Child Labour 1987,
- National Health Policy 2002,
- National Charter for Children (NCC) 2003,
- National Plan of Action for children (NPA) 2005 and
- The New National policy for Children 2013 etc.

Judicial Pronouncement

Rag picking by children is undoubtedly a dangerous activity. It is the obligation of state to provide such child with utmost care and health facility and provide them with all type of basic needs and education. When violation of right occurs or a doubt of interpretation in law occurs, judiciary perform its parts for the clarification of legislation and intimate the legislator to remind their duty to amend the unconstitutional part. Some of well known judgements in this regards are —

- Sheela Barse V. Union of India (1986). In this landmark judgement the honourable court held that children are the nation's supreme asset. Children related programme should find a primary part in our National Plans and policies for the development of human resources, so that children grow up-to physically fit, mentally alert and morally healthy.
- M. C. Mehta V State of Tamil Nadu and Others (1997). In this historical judgement the honourable court has outlined the perspective of the Constitution for the protection of Child labour. The Judiciary shows its concern for the increased rate of child labour and reveals that the state has failed to eradicate the problem of child labour and lacking jeal to eradicate it. So the judgement provides certain possible solution to combat the problem of child labour.

• Raj Homes Pvt Limited V. State of M.P. and another (4th December 2002). In this judgement the Apex court has observed that – "the survey to be made of child labour within six months from the date of the order". The court also held that any violator is liable to pay compensation of Rs. 20,000 / for every child employed in contravention of the provisions of the Act. The Government must either provide job for an adult member of the family and monetary help to his family of child labour.

- Ganesh Ram V State of Jharkhand and others (2006). In this remarkable judgement the honourable court held that if a person below 14 years of age is employed, then penal order can be passed against employer under the Child Labour (Prohibition and Regulation Act 1986) but no order that is penal in nature can be passed against the tender aged children.
- Judgement of Patna High court during COVID 19 Pandemic .This is a well known judgement of PATNA High Court where the honourable court took sue-moto cognizance of a news item titled 'school shut, no mid day meal so children in Bihar, village back to work selling scrap' Published in Indian Express dated Jul 6,2020. The honourable Court reveals that the economic hardship imposed by the ongoing pandemic is putting millions of children at risk of being forced into child labour. The court further held that-

"Rag picking is one of the worst forms of child labour plaguing our society. Such deplorable activity creates major health and psychological issues. It increases children's frequent injuries, chemical poisoning and infections. Though India has passed lots of constitutional protections, Laws for abolishing and regulating child labour including Child Labour (Prohibition and Regulation) Act of 1986 the problem of child rag pickers still persists in our country".

Having pursued by both learned Advocate General and learned Amicus curiae, the court was of opinion that -'it shall be of utmost important for the state functionaries to have a workable arrangement for the children'. Hence certain directions are given by the court.

Data Collection and Analysis

The present study is basically empirical in nature. For this study slums in Sambalpur municipality of the state Odisha has selected. According to the statistic i,e Child Labour Survey in Odisha 2006-2007, the number of identified child labour (including child rag picker) was 17371, among whom boys were 8560 and girls 8811 in the district of Sambalpur. Till date no clear cut data is available regarding child rag pickers in different urban areas in the State of Odisha. But according to the labour card holder rag picker parents approximately 503 children are in rag picking activity residing in slums of sambalpur district. Hence on the basis of random sampling method, 20 percent i,e 100 child rag pickers from 10 slums areas are selected for sample. Information is also obtained during interviews of 100 numbers of parents regarding Knowledge of basic rights of children in a structured interview.

Result and Discussion

Table -1 Number of Child rag picker

Age Group	Number Of Respondent child Rag Picker
Up to 5 years	02
Above 5 years to Below 10 years	24
Above 10 years up to 14 years	74
Total	100

(Source- Field Data)

Table -1 reveals that 2 numbers of children are up to 5 years age. 24 numbers of children engage in rag picking are of age above 5 years to below 10 years and 74 children who engage in rag picking are of age above 10 years up to 14 years.

Table – 2 Working site of child rag pickers

Working Site of Child Rag Pickers	Number of Respondent
1.Dumping Sites	42
2.Railway Station	12
3.Colony/Mall/ Basti Side	09
4.Bus Stand	10
5.Hospital Side	06
6.Streets	19
7.Industry Area	02
	100

(Source- Field Data)

Table- 2 depicts the detail of working site of child rag pickers. 42 child rag pickers are engaged in rag picking at dumping sites, whereas 12 numbers of children pick waste at railway station, 9 children pick wastes at places like Colony or mall side or Basti Side, 10 children pick wastes at places near Bus Stand, 6 children wander for waste materials at hospital sides, 19 children roam around streets for different waste materials and 2 numbers of child rag pickers collect rag at places near industrial areas.

The field data reveals different types of waste materials that picked by child rag pickers. 19 children collect plastic waste materials, 2 children collect glass objects like drink bottles, 11 children collect waste card board and paper materials, 4 children collect tin objects, 2 children collected iron materials for selling and lastly 62 children collect all types of waste materials for selling to junk dealers.

The Field data gives detail of the use of safety equipments by children during rag picking. 15 children use wooden stick at time of collection. 01 child use mask and 2 children use gloves at the time of collection of waste and 81 child rag pickers do not use any safety equipments at the time of collection of waste materials.

Table – 3
Health Problems of Child Rag Pickers

Sl. No.	Health Problems of Child	Number of Respondent
	Rag Pickers	
1	Headache	16
2	Skin Diseases	27
3	Cut injuries	22
4	Eye infection	14
5	Stomach pain	15
6	Back Pain	04
7	Breathing Problem	02
	Total	100

(Source – Field Data)

Table- 3 depicts various health problems faced by children during rag picking. 16 children complain of frequent headache in interview. 27 children speak of their skin diseases, where as 22 children speak about the cut injuries got at time of picking wastes. 14 children speak about their eye infection in past, 15 children complain about their stomach pain for non available of food in time, 4 number of children complain about back pain where as 2 of them complain of breathing problem.

Field data also reveals that some of child rag pickers go to hospital for treatment when injured. But majority of child rag pickers have directly depended on various medicine stores. Cut or injury affected child rag pickers have not gone for treatment anywhere except healed their injuries by putting oil and turmeric on cuts and adopt other home remedies prescribed by family members. Undoubtedly such type of self treatment hampers their health and growth.

Table – 4
Various Abuse Faced by Child Rag Pickers

Sl. No.	Abuse Faced by Child Ra	ng Number of Respondents
	Pickers	
1	Physical Abuse	29
2	Sexual Abuse	04
3	Verbal Abuse	43
4	All types of Abuse	24
	Total	100

(Source- Field Data)

Table -4 reveals various abuse faced by child rag pickers. 29 children said they have faced physical abuse at their work place as well as in society, 4 children have experienced sexual abuse and 43 child rag pickers have faced verbal abuse from security guards, police, junk dealers, civil society as well as senior rag pickers. But majority 24 children said they have experienced all types of abuse in their life time. The data also reveals that 27 child are literate. They have joined the primary school but drop out before completion of primary education.

Table – 5
Knowledge of a child's Basic rights

Sl. No.	Knowledge of a child's	No. of Respondents(Parents
	basic rights	and child Rag Pickers)
A.	Knowledge of Right to	-
	Survival	
1	Yes	28
2	No	172
	Total (100 +100)	200
B.	Knowledge of Right of	-
	Protection	
1	Yes	24
2	No	176
	Total	200
С.	Knowledge of Right to	-
	Education	
1	Yes	53
2	No	147
	Total	200
D	Knowledge of Rag picking as	-
	a hazardous form of child	
	labour is prohibited by law	
1	Yes	23
2	No	177
	Total	200
Е	Knowledge about free and	-
	compulsory education of all	
	children in the age group of 6	
	to 14 years	
1	Yes	55
2	No	145
	Total	200

(Source – Field Data)

Table -5 reveals Respondent's knowledge about basic rights of children. Hence views of parents of rag pickers are taken along with the views child rag pickers. 172 respondent (total 200 numbers) have said that they have no knowledge of child's basic right i,e right to survival.176 respondent have no knowledge regarding right of Protection as a basic right of children (includes protection from domestic violence, child sexual abuse, disability, child marriage, gender discrimination etc.).147 respondents have no knowledge regarding children's right to education, 177 respondents have no knowledge that rag picking is a hazardous form of child labour hence prohibited by law. From the field survey it is found 145 respondents have no knowledge about free and compulsory education of all children in the age group of 6 to 14 years.

Regarding opportunity of getting benefit from various schemes and programmes of Government for the economic support of family, the respondents (Parents and child rag pickers) react differently. Majority of them i,e 146 respondents (out of 200) have not received any benefit from various schemes and programmes and 121 respondents speaks about no approach of any officers of administration or labour department or child welfare department. Only some organisations have approached them regarding awareness of child trafficking, awareness for water and sanitation, distribution of winter clothes etc.

Conclusion and Suggestions

Child rag pickers work in hazardous environment. They suffer from lungs, nose, ear and throat infection, cuts, wound, scabies etc. as they work in unhygienic condition with stray animals. Many times they face negative experience from junk dealers, police, civil society and contractors. Society behaves indifferently due to their unhealthy behaviour and lifestyle. It has seen people's sympathy is towards child beggars but not towards child rag pickers.

Child rag pickers are basically migrants, come from rural areas. Hence they do not have proper place to live in. They live in jhuggis, slums, parks, railway platform or mall's pavement. Their family do not have child's birth certificate, Job Cards, Below Poverty Line (BPL) ration card. Many of them have no access to basic Governmental facility to health care, food supply and primary education of their child.

Suggestions

The evidence reveals that poverty, the number of family members and low family income play an inevitable part in the life of child rag pickers. Most of them choose this profession to beer family expenditure and fulfil their own needs. Due to urbanization the basic needs of children are changing. Hence there is dire need in the revision of the national policy for adoption of stringent steps for the effective implementation of the existing provisions so that violation of basic rights of these deprived children will be stopped.

There should be formulation of specific plan of action for child rag pickers from grass root level. Child rag pickers should be identified and prevented from their engagement in rag picking activities. A register of rag pickers with family details should be maintained in each and every municipality so that vigilant eye will be on the children to ensure that they will not be employed in this hazardous activity and sent to school.

The educational curriculum may be of flexible nature with vocational training for each slum or back ward areas so that basic requirement of the child rag pickers will be fulfilled. And they will be able to support their family with extra earning.

There should be consolidation of existing labour laws with other provisions for the welfare of children regarding health, safety provision, education and rag picking children's overall development. Because enactment of a specific law can prohibit the engagement of children in rag picking. Different action plans should be developed for the withdrawal of children from rag picking activities. Social awareness of civil society regarding this sensitive issue of child rag pickers needs to be raised. Counselling of parents is also necessary so that they can send their children to school instead of rag picking activities.

Judiciary should take suo moto initiatives in child rag pickers issues. This has to entertain more Public Interest Litigation in this matter. Law enforcing officials should be more sensitized and trained so that they can handle the matter delicately. Sensitizing of police and proper training should be provided them so that they can handle violation of basic rights of child rag pickers in proper way. Hence a change in the attitude of society collectively is necessary to tackle the problem of rag picking among children.

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